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**FINAL**  
CITY COUNCIL  
  
CITY OF WICHITA  
KANSAS

City Council Meeting  
09:00 a.m. May 17, 2011

City Council Chambers  
455 North Main

**OPENING OF REGULAR MEETING**

- Call to Order
- Invocation
- Pledge of Allegiance
- Approve the minutes of the regular meeting on May 10, 2011

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**AWARDS AND PROCLAMATIONS**

- Proclamations:  
  
National Kids to Parks Day  
National Foster Care Month
- Awards:  
  
Service Award-Wayne R. Riddle  
Small Business Recognition  
MiniMPA Recognition

**I. PUBLIC AGENDA**

NOTICE: No action will be taken relative to items on this agenda other than referral for information. Requests to appear will be placed on a "first-come, first-served" basis. This portion of the meeting is limited to thirty minutes and shall be subject to a limitation of five minutes for each presentation with no extension of time permitted. No speaker shall be allowed to appear more frequently than once every fourth meeting. Members of the public desiring to present matters to the Council on the public agenda must submit a request in writing to the office of the city manager prior to twelve noon on the Tuesday preceding the council meeting. Matter pertaining to personnel, litigation and violations of laws and ordinances are excluded from the agenda. Rules of decorum as provided in this code will be observed.

1. Starr Beasley - Requesting City to donate the house at 1731 North Lorraine.
2. Carl Fry - Arc of Sedgwick County Car Show.

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## **II. CONSENT AGENDAS (ITEMS 1 THROUGH 14)**

NOTICE: Items listed under the "Consent Agendas" will be enacted by one motion with no separate discussion. If discussion on an item is desired, the item will be removed from the "Consent Agendas" and considered separately

*(The Council will be considering the City Council Consent Agenda as well as the Planning, Housing, and Airport Consent Agendas. Please see "ATTACHMENT 1 – CONSENT AGENDA ITEMS" for a listing of all Consent Agenda Items.)*

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## **COUNCIL BUSINESS**

### **III. UNFINISHED COUNCIL BUSINESS**

1. Repair or Removal of Dangerous and Unsafe Structures, 2524 West 36th Street North. (District VI)

RECOMMENDED ACTION: Take appropriate action based on the testimony received at the hearing. Any extension of time granted to repair the structure should be conditioned on the following: (1) taxes and specials are paid in full at the time of any property sale closing; (2) the structures are maintained secure as of May 17, 2011, and are kept secured during the sale period and/or renovation; and (3) the premise is kept clean and free of debris as of May 17, 2011, and is so maintained during the sale period and/or renovation.

### **IV. NEW COUNCIL BUSINESS**

1. Suspension of the Drinking Establishment license of the El Farol Rojo, 1030 South Broadway. (District I)

RECOMMENDED ACTION: Uphold the thirty (30) day suspension of the El Farol Rojo Drinking Establishment (DE) license.

2. Approval of Downtown Development Incentives Policy. (Districts I and VI)

RECOMMENDED ACTION: Approve the proposed Downtown Development Incentives Policy.

3. City-County Economic Development Grant Agreement with Hawker Beechcraft Corporation. (District II)

RECOMMENDED ACTION: Approve the Economic Development Incentive Agreement with Hawker Beechcraft Corporation, place the Home Rule Ordinance on first reading, and authorize the necessary signatures.

4. Public Hearing and Issuance of Industrial Revenue Bonds, Four-G, LLC. (District I)

RECOMMENDED ACTION: Close the public hearing and place on first reading the Bond Ordinance authorizing the execution and delivery of documents for the issuance of Industrial Revenue Bonds in an amount not-to-exceed \$12,000,000 for Four-G, LLC, and authorize the necessary signatures.

5. Federal Edward Byrne Memorial Justice Assistance Grant E-Citation Program.

RECOMMENDED ACTION: Approve the grant application.

6. Donation of Sculpture from Hypatia Club.

RECOMMENDED ACTION: Approve the donation of artwork from the Hypatia Club.

7. Animal Control and Exotic Animal Ordinance Revisions.

RECOMMENDED ACTION: Approve the proposed amendments and place the ordinances on first reading.

8. Southeast Boulevard Bridge at the Drainage Canal. (District III)

RECOMMENDED ACTION: Approve the project, place the amending ordinance on first reading and authorize the necessary signatures.

9. Petition to repair and upgrade drainage detention ponds to serve Hampton Square and Prairie Pointe Additions, north of 37th Street North, west of Maize. (District V)

RECOMMENDED ACTION: Approve the petition, adopt the resolution and authorize the necessary signatures.

(9:30 a.m. or soon thereafter)

10. Repair or Removal of Dangerous and Unsafe Structures. (Districts I and VI)

Property Address

- a. 1017 South Hydraulic
- b. 2439 West 3rd Street North

Council District

- I
- VI

RECOMMENDED ACTION: Close the public hearing, adopt the resolutions declaring the building a dangerous and unsafe structure, and accept the BCSA recommended action to proceed with condemnation, allowing 10 days to start demolition and 10 days to complete removal of the structure. Any extensions of time granted to repair the structure would be contingent on the following: (1) All taxes have been paid to date, as of May 17, 2011; (2) the structure has been secured as of May 17, 2011 and will continue to be kept secured; and (3) the premises are mowed and free of debris as of May 17, 2011, as will be so maintained during renovation.

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**COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES**

**PLANNING AGENDA**

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

**V. NON-CONSENT PLANNING AGENDA**

None

**HOUSING AGENDA**

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

**Fern Griffith, Housing Member is also seated with the City Council.**

**VI. NON-CONSENT HOUSING AGENDA**

None

**AIRPORT AGENDA**

NOTICE: The City Council is meeting as the governing body of the Airport Authority for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

**VII. NON-CONSENT AIRPORT AGENDA**

None

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**COUNCIL AGENDA**

**VIII. COUNCIL MEMBER AGENDA**

None

**IX. COUNCIL MEMBER APPOINTMENTS**

1. **Board Appointments.**

RECOMMENDED ACTION: Approve the Appointments.

Adjournment

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(ATTACHMENT 1 – CONSENT AGENDA ITEMS 1 THROUGH 14)

**II. CITY COUNCIL CONSENT AGENDA ITEMS**

1. Report of Board of Bids and Contracts dated May 16, 2011.

RECOMMENDED ACTION: Receive and file report; approve Contracts;  
authorize necessary signatures.

2. Applications for Licenses:

<u>Special Event</u>	<u>Address</u>	<u>Special Event Date (6-1-2011 thru 6-11-2011)</u>
Joseph E Schlimm	The Bars Open	401 West Douglas

RECOMMENDED ACTION: Approve the licenses.

3. Applications for Licenses to Retail Cereal Malt Beverages:

<u>Renewal</u>	<u>2011</u>	<u>(Consumption off premises)</u>
Kim Huynh	Kim Son Asian Market LLC	960 East Pawnee
<u>Renewal</u>	<u>2011</u>	<u>(Consumption on premises)</u>
Roberto Beltran	Tacos Mexican Food LLC*	1930 East Pawnee

\*General/Restaurant 50% or more gross revenue from sale of food.

RECOMMENDED ACTION: Approve licenses subject to Staff review and approval.

4. Preliminary Estimates:

- a. Preliminary Estimates. (See Attached)

RECOMMENDED ACTION: Receive and file.

5. Deeds and Easements:

- a. Deeds and Easements.

RECOMMENDED ACTION: Accept documents.

6. Consideration of Street Closures/Uses.

- a. Community Events - Young Professionals of Wichita Enhance Community Project. (District VI)

RECOMMENDED ACTION: Approve the request subject to; (1) Hiring off-duty certified law enforcement officers as required; and (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department.



7. Agreements/Contracts:

- a. Relocate Existing Pipeline Easement across City Owned Property in and around Dr. Glen Dey Park, formerly Grove Park, in Conjunction with the Homeland Preparedness Project. (District I)

RECOMMENDED ACTION: Approve Agreements/Contracts; authorize the necessary signatures.

8. Design Services Agreement:

- a. Agreement for Design Services for Water, Sanitary Sewer, Drainage, and Paving Improvement in Stonebridge 2nd Addition. (District II)

RECOMMENDED ACTION: Approve Agreements/Contracts; authorize the necessary signatures.

9. Property Acquisitions:

- a. Partial Acquisition of 1531 South Broadway for the Harry and Broadway Intersection Improvement Project. (Districts I and III)
- b. Partial Acquisition of 3201 South Seneca for the Seneca, 31st Street South to Interstate 235 Road Improvement Project. (District IV)

RECOMMENDED ACTION: Approve budgets and Contracts; authorize necessary signatures.

10. Minutes of Advisory Boards/Commissions

Board of Code Standards and Appeals, April 4, 2011  
Airport Advisory Board, April 4, 2011  
Board of Appeals of Plumbers and Gas Fitters, April 6, 2011

RECOMMENDED ACTION: Receive and file.

11. Purchase Option Big Dog Motorcycles, Waterview Realty, LLC. (District I)

RECOMMENDED ACTION: Adopt the resolution approving the Bill of Sale, Termination of Lease Agreement and Special Warranty Deed to convey the Big Dog property to Waterview Realty, L.L.C. and authorize the necessary signatures.

12. Assistance to Firefighters Grant Program.

RECOMMENDED ACTION: Approve the award of the 2010 Assistance to Firefighters grant and authorize necessary signatures.

13. WAMPO Consultant Contract for On-call Independent Legal Services.

RECOMMENDED ACTION: Authorize the necessary signatures to execute the contract for Independent On-call Legal Services.

14. Second Reading Ordinances: (First Read May 10, 2011)

- a. a. List of Second Reading Ordinances.

RECOMMENDED ACTION: Adopt the Ordinances.

## **II. CONSENT PLANNING AGENDA ITEMS**

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

None

## **II. CONSENT HOUSING AGENDA ITEMS**

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

**Fern Griffith, Housing Member is also seated with the City Council.**

None

## **II. CONSENT AIRPORT AGENDA ITEMS**

NOTICE: The City Council is meeting as the governing body of the Airport Authority for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

None

City of Wichita  
City Council Meeting  
May 17, 2011

**TO:** Mayor and City Council

**SUBJECT:** Repair or Removal of Dangerous & Unsafe Structures  
2524 West 36<sup>th</sup> Street North (District VI)

**INITIATED BY:** Office of Central Inspection

**AGENDA:** Unfinished Business

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**Recommendations:** Take appropriate action based on testimony received during the review hearing to consider condemnation and removal of dangerous and unsafe structures at 2524 West 36<sup>th</sup> Street North.

**Background:** On March 8, 2011, the City Council conducted a public hearing to consider condemnation of the dangerous and unsafe structures at 2524 West 36<sup>th</sup> Street North, which include a vacant manufactured home, garage and storage shed. Mr. Van Tar, a realtor representing the property owner, appeared on his client's behalf. Mr. Tar informed the Council that his client had recently received a quit claim deed from her ex-husband so she could list the property for sale. Mr. Tar stated the owner's intent was to sell the property and use the proceeds to move the manufactured home to the eastern part of the state. Mr. Tar said he has a contract to list the property for sale for six (6) months.

City Council Member Janet Miller made a motion to defer Council action for sixty days to allow time for progress on sale of the property. Council Member Miller stated she would look favorably on a further extension of time at the end of sixty days if the debris and weeds have been removed.

**Analysis:** Staff inspected the property on April 27, 2011. No repairs had been made. The main structure was secured, but the garage and shed were unsecured. The premise had tree waste and bulky waste on it. Per an April 29, 2011 conversation with the realtor, no purchase offer had been received for the property.

As of April 29, 2011, the 2006, 2007, 2008, 2009 and 2010 taxes were delinquent in the amount of \$1,471.27, including interest.

There is a 2011 special assessment for weed cutting in the amount of \$126.68, including interest.

**Financial Considerations:** Structures condemned as dangerous buildings are demolished with funds from the Office of Central Inspection's Special Revenue Fund contractual services budget, as approved annually by the City Council. This budget is supplemented by an annual allocation of federal Community Development Block Grant funds for demolition of structures located within the designated Neighborhood Reinvestment Area. Expenditures for dangerous building condemnation and demolition activities are tracked to ensure that City Council Resolution No. R-95-560, which limits OCI expenditures for non-revenue producing condemnation and housing code enforcement activities to 20% of OCI's total annual budgeted Special Revenue Fund expenditures, is followed. Owners of condemned structures demolished by the City are billed for the contractual costs of demolition, plus an additional \$500 administrative fee. If the property owner fails to pay, these charges are recorded as a special property tax assessment against the property, which may be collected upon subsequent sale or transfer of the property.

**Goal Impact:** This agenda item impacts the goal indicator to Support a Dynamic Core Area and Vibrant Neighborhoods. Dangerous building condemnation actions, including demolitions, remove blighting and unsafe buildings that are detrimental to Wichita neighborhoods.

**Legal Considerations:** The owner and owner's representative has been informed of the date and time of the hearing.

**Recommendations/Actions:** It is recommended that the City Council take appropriate action based on the testimony received at the hearing. Any extension of time granted to repair the structure should be conditioned on the following: (1) taxes and specials are paid in full at the time of any property sale closing; (2) the structures are maintained secure as of May 17, 2011, and are kept secured during the sale period and/or renovation; and (3) the premise is kept clean and free of debris as of May 17, 2011, and is so maintained during the sale period and/or renovation.

If any of the above conditions are not met, the Office of Central Inspection will proceed with demolition action and also instruct the City Clerk to have the resolution published once in the official city paper and advise the owners of these findings.

**Attachments:** None

City of Wichita  
City Council Meeting  
May 17, 2011

**TO:** Mayor and City Council Members

**SUBJECT:** Suspension of the Drinking Establishment license of the El Farol Rojo, 1030 South Broadway (District I)

**INITIATED BY:** Wichita Police Department

**AGENDA:** New Business

---

**Recommendation:** Uphold the thirty (30) day suspension of the Drinking Establishment (DE) license issued to the El Farol Rojo, 1030 South Broadway, for repeated violations of City Ordinances governing Drinking Establishments.

**Background:** On May 25, 2010, detectives did a club check at this establishment and located an underage male inside the premises consuming alcohol. The bartender and the minor were cited for these violations of the City liquor ordinance.

This establishment has previously served a seven (7) day and a fourteen (14) day suspension for prior liquor law violations. This constitutes a third violation.

**Analysis:** Under City Ordinance 4.16.130 (a) and (b) it is illegal for Drinking Establishments (DE) to permit minors to enter the premises, and to furnish alcoholic liquor to a minor.

**Financial Consideration:** None

**Goal Impact:** Provides for a Safe and Secure Community through enforcement of City Ordinances regarding proper operations of clubs and drinking establishments.

**Legal Consideration:** According to City Ordinance 4.16.095 (a), the Chief of Police shall have the authority to suspend a license, and the licensee may appeal any order of suspension or reclassification issued pursuant to this section to the City Council within seven days from the date of such order, and in the event such order of suspension or reclassification is upheld by the City Council, the licensee may appeal to the District Court of the county in the manner provided by K.S.A. 41-2708 and any amendments thereto.

**Recommendation/Action:** It is recommended that the City Council uphold the thirty (30) day suspension of the El Farol Rojo Drinking Establishment (DE) license.

**Attachment:** Memo to City Manager



## WICHITA POLICE DEPARTMENT

**TO:** Robert Layton, City Manager  
**FROM:** Thomas J. Stolz, Investigation Chief  
**SUBJECT:** Liquor license suspension  
**DATE:** March 11, 2011


The Wichita Police Department is requesting a temporary suspension of a Drinking Establishment (DE) club license as a result of City Ordinance violations.

On January 14, 2010, WPD Vice Detectives conducted a club check at El Farol Rojo and located at 1030 S. Broadway. They located a 20 year old male from Texas inside the club consuming a beer. He was arrested and cited for entering a DE and consuming alcohol in a DE. He failed to show up for court and a warrant was issued. The doorman of the club, Andy Delgado, was charged with assault and allowing a minor to enter the club. He pled guilty to the assault charge 7/29/2010. The bartender and owner, Nazario Hernandez was cited for permitting consumption by a minor, but his charge was dropped when the minor failed to appear in court to testify. The dismissal was not caused by a defect in the criminal investigation, and the Department has elected to proceed with the administrative action against the licensee. This club has been the scene of numerous violent incidents, narcotics, and liquor violations.

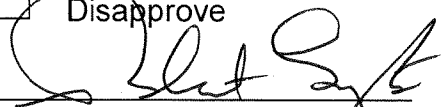
This constitutes a third recent suspension. On Sept. 15, 2008, officers responding to a disturbance call found Juan Frayre, 20 years old, inside the Drinking Establishment and cited the owner/manager Nazario Hernandez. Following his guilty plea, the club was suspended for 14 days beginning Feb. 9, 2009. On Jan. 14, 2009, officers conducting a club check discovered that the bartender, Enrique Delgado had served beer to Erik Martinez, 20 year old. The club was suspended for this violation for 14 days beginning on May 25, 2009.

We are requesting a 30-day suspension of the club's liquor operations for this violation. Please see the attached notification letter to the club manager which we will deliver with your approval.

If there are any questions, please call me at 268-4270.

  
Thomas J. Stolz  
Deputy Chief of Police

☒ Approve  
☐ Disapprove

  
Robert Layton, City Manager

Date: 4/2/11

Attachments: Suspension Letter to Ms. Delgado and Mr. Nazario

**Police Department**

Giselda Delgado  
2322 S. Cardington  
Wichita, Kansas 67209

April 14, 2011

Ms. Delgado:

You are hereby receiving a thirty (30) day suspension of El Farol Rojo Drinking Establishment (#24072) license. The basis of the suspension was derived from City of Wichita ordinance 4.04.025(a) which prohibits furnishing alcohol to minors inside licensed drinking establishments.

The suspension will begin at 12:00 P.M. on April 26, 2011 and will end at 12:00 P.M. on May 25, 2011. There should be no activity associated with liquor distribution or possession at El Farol Rojo, 1030 S. Broadway during this thirty (30) day period.

On January 14, 2010, WPD Vice Detectives conducted a club check at this establishment. They located a 20 year old male from Texas who was inside consuming a beer. He was arrested and cited for entering a DE and consuming alcohol in a DE. The doorman of the club, Andy Delgado, was charged with assault and allowing a minor to enter the club. He pled guilty to the assault charge 7/29/2010. The bartender and owner, Nazario Hernandez was cited for permitting consumption by a minor, but his charge was dropped when the minor failed to appear in court to testify. The dismissal was not caused by a defect in the criminal investigation, and the Department has elected to proceed with the administrative action against the licensee. This club has been the scene of numerous violent incidents, narcotics, and liquor violations. This constitutes a third recent suspension.

According to City Ordinance 4.16.095(a), the Chief of Police shall have the authority to suspend a license, and the licensee may appeal any order of suspension or reclassification issued pursuant to this section to the City Council within seven days from the date of such order, and in the event such order of suspension or reclassification is upheld by the City Council, the licensee may appeal to the District Court of the county in the manner now provided by K.S.A. 41-2708 and any amendments thereto.

Questions may be referred to the Vice Administrative Detective at 268-4280.

Sincerely,

  
Norman D. Williams  
Chief of Police



**O'Hara & O'Hara L.L.C.**

Attorneys & Counselors at Law

1923 East First Street  
Wichita, Kansas 67214  
(316) 263-5601 • Fax: (316) 263-7205  
E-Mail: oharaohara@sbcglobal.net

April 20, 2011

City Clerk  
City Hall  
455 North Main  
Wichita, KS 67202

Re: Appeal of El Farol Rojo Drinking Establishment  
License (#24072) Suspension by the Chief of Police to the City Council

Dear City Council,

This letter hereby serves notice of Giselda Delgado's appeal of the thirty (30) day suspension of El Farol Rojo Drinking Establishment (#24072) license as noted in the April 14, 2011 letter sent by the Chief of Police (see attachment). According to City Ordinance 4.16.095(d) Ms. Delgado is allowed to appeal the Chief of Police's suspension and because an appeal has been filed the Chief of Police's suspension is to be stayed.

Ms. Delgado is appealing the suspension of the Chief of Police to the City Council.

If anything further is needed from this office please do not hesitate to contact us

Very truly yours,

Christopher S. O'Hara

CSO/lo

Established 1950

T.L. O'Hara (1928-1980) • Charles A. O'Hara • Christopher S. O'Hara • Morgan O'Hara Gering • Richard A. Samaniego



**O'Hara & O'Hara**  
Attorneys & Counselors at Law  
1223 East First Street  
Wichita, KS 67214  
(316) 263-5601 \* Fax: (316) 263-7205  
E-Mail: [oharaohara@sbcglobal.net](mailto:oharaohara@sbcglobal.net)

**FACSIMILE COVER LETTER**

**TO:** City Clerk

**FACSIMILE NO.** 858-7776

**FROM:** Christopher S. O'Hara  
O'Hara & O'Hara, Facsimile No. (316) 263-7205

**Number of Pages including cover page:** 3

**Date Message Sent:** 4-21-11 **Time:** \_\_\_\_\_

**COMMENTS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CONFIDENTIALLY NOTICE:** The documents accompanying this FAX transmission contain confidential information belonging to the sender which is legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking of any action in reliance on the contents of this faxed information is strictly prohibited. If you receive this FAX in error, please immediately notify us by telephone to arrange for return of the original documents to us.

Established in 1950  
T.L. O'Hara (1922-1980) \* Charles A. O'Hara \* Christopher S. O'Hara \* Morgan O'Hara Gering

City of Wichita  
City Council Meeting  
May 17, 2011

**TO:** Mayor and City Council

**SUBJECT:** Approval of Downtown Development Incentives Policy (Districts I and VI)

**INITIATED BY:** City Manager's Office/Center for Project Management

**AGENDA:** New Business

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**Recommendations:** Approve the Downtown Development Incentives Policy.

**Background:** Project Downtown, the Master Plan for Wichita, adopted by the City Council on December 14, 2010, charts a 20-year vision for the development of downtown Wichita. In order to implement the plan, 40 action strategies aimed at creating unique downtown places, expanding transportation choices and enabling development are recommended for implementation. Project Downtown contains a business plan for developing public-private partnerships designed to overcome the barriers to private investment in downtown projects. The business plan recommends the development of a prudent public investment policy that is clear, predictable and transparent, maximizes public investment and enhances market-driven development.

The policy development process has been comprehensive and collaborative. A team of City staff and Wichita Downtown Development Corporation (WDDC) staff were convened to develop a framework for the policy that provides evaluative criteria for both the developer and the project. Research into best practices from other jurisdictions was conducted. Policy guidance and review was provided by Sarah Woodworth, one of the consultant contributors to the downtown Master Plan. Coordination and communication with the WDDC Board of Directors, local lenders and local real estate developers were also key components of the process.

**Analysis:** The proposed policy outlines the criteria by which the City of Wichita will consider public-private partnerships for downtown development projects. Prior to consideration by the City Council, the parties requesting public incentives for a downtown project must participate in a preliminary development conference with the Downtown Design Resource Center (DDRC). The DDRC is a partnership between the City of Wichita and WDDC to assist developers in preparing requests for downtown development incentives.

After completing the preliminary development conference, the parties requesting incentives will be required to submit specific information about their project, including project design and business plan; and developer background and experience. A non-refundable application fee will be required at the time of formal submittal of the project. Criteria will be evaluated on the project's public benefits, the project's business plan and the developer's background and qualifications. An evaluation matrix will be used to evaluate and score projects on each criteria category. In addition, overall general thresholds for the developer and the project will be required to be met prior to submitting a request for public incentives, such as minimum developer equity contribution, completion of City vetting process and satisfaction of the "but-for" economic analysis.

The evaluation process will be completed by a public-private team appointed by the City Manager. The team's collective recommendation will be provided to the City Manager for review and, if appropriate, recommendation to the City Council. Concurrently with, or prior to, the approval of a public-private partnership by the City Council, the developer will enter into a Development Agreement governing the conduct of the respective parties relative to the proposed downtown development project.

Throughout the term of the project, developers will provide an annual report to the City no later than 30 days following the anniversary date of the Development Agreement. The report will provide an account of all sources and uses of private funds in the project and will detail the developer's progress toward completing all responsibilities and milestones of the project as identified in the Development Agreement.

**Financial Considerations:** Adoption of the Downtown Development Incentives Policy has no direct cost impact to the City. The City of Wichita will receive an \$8,500 application fee per project to offset direct and administrative costs.

**Goal Impact:** The policy impacts Economic Vitality and Affordable Living by targeting public investment to benefit people and encourage further investments, Core Area and Neighborhoods by continued revitalization of the core in a way that supports walkability and downtown character, Quality of Life through enhancing the vibrancy of downtown and providing community benefits, and Efficient Infrastructure by focusing public investment in public assets that provide lasting benefits.

**Legal Considerations:** The Downtown Development Incentives Policy has been reviewed and approved to form by the Law Department.

**Recommendations/Actions:** It is recommended that the City Council approve the proposed Downtown Development Incentives Policy.

**Attachments:**

City of Wichita Downtown Development Incentives Policy  
Public-Private Partnership Evaluation Scoring Matrix

## **CITY OF WICHITA DOWNTOWN DEVELOPMENT INCENTIVES POLICY**

### **BACKGROUND AND PURPOSE**

Project Downtown: the Master Plan for Wichita was adopted by the City Council on December 14, 2010, as the official policy guide for the revitalization of downtown Wichita. Project Downtown identifies that development in downtown often poses initial development costs that can be hard to address with solely with mechanisms like special assessment districts; façade improvements grants and financing; economic development incentive and industrial revenue bond based tax abatements; community improvement district financing; or lead and asbestos abatement financing that provide development incentives in other areas of Wichita. Therefore, Project Downtown recommends that the City of Wichita help overcome such obstacles to private investment by establishing a Downtown Incentives Policy that provides for a range of additional incentives in the form of public investments in downtown development projects that are timed with and supportive of private investment if a facet of the development involves creation of public assets that have lasting public benefits and facilitate additional private investment, and if the proposed public investment is investment in public assets such as parking, streetscaping, parks or other facilities with public benefit beyond the individual project. The purpose of the Downtown Development Incentives Policy is to outline the criteria by which the City of Wichita will consider such additional incentives for downtown development projects. Downtown development projects are those projects located within the Project Downtown plan area.

### **APPLICABLE INCENTIVES**

The Downtown Development Incentives Policy applies to requests for the following general public sources of funding (hereafter, “Downtown Development Incentives”) to be used in a downtown development project that involves creation of, and investment in, public assets with a lasting public benefit and facilitation of additional private investment:

- Tax Increment Financing (TIF)
- Capital Improvement Projects (CIP)
- Hotel Guest Tax
- Forgivable Loans
- STAR Bonds
- Land
- Cash

The City’s other established incentive programs will remain available for downtown development projects but will not be subject to the requirements of this policy.

### **PRELIMINARY REVIEW PROCESS**

Prior to consideration by the City Council, parties intending to request Downtown Development Incentives must contact the Downtown Design Resource Center (DDRC) prior to submitting their request. The DDRC is a consultative undertaking between the Wichita Downtown

Development Corporation and the City of Wichita responsible for assisting with the preparation of requests for Downtown Development Incentives. Parties requesting Downtown Development Incentives are required to participate in the preliminary review process established by the DDRC prior to submitting their request.

Once the developer has completed detailed design of the project, the project will be scheduled for design review by the DDRC. The developer will need to provide a site plan and perspective drawings in advance of the design review meeting. Developers and their design team will attend the design review meeting to present the project and answer questions from DDRC team. A dialogue regarding any design modifications needed for consistency with the design guidelines will occur, and the DDRC team will attempt to reach consensus regarding any design modifications with the developer. A written report outlining design modifications needed for consistency with the design guidelines will be provided to the developer following the design review meeting. The developer will provide a revised site plan and perspective drawings to the DDRC for confirmation of the design modifications. If the design modifications are unacceptable to the developer, an appeal to the City Manager may be filed. The City Manager will appoint a committee to hear and decide the appeal. In the event the developer and committee are unable to reach agreement on the modifications, the developer may withdraw the proposal.

### **SUBMITTAL REQUIREMENTS**

After completing the preliminary review process requirements, parties requesting Downtown Development Incentives must submit the information listed below. The City Manager, or other City Staff designated by the City Manager, will determine if the information provided is sufficient to undertake the evaluation process. If the City Manager, or other City Staff designated by the City Manager, determines that additional information is needed in order to undertake the evaluation process, parties requesting Downtown Development Incentives must submit such additional information as may be required by the City Manager, or other City Staff designated by the City Manager.

#### **Project Summary**

1. Project amount and purpose
2. Description of the redevelopment project, including details of how the proposed project meets the “Threshold Criteria” and the “Public Benefit Criteria” described in the “Evaluation Process” section below
3. Description of the proposed public-private partnership, including details of how the project partnership meets the “Threshold Criteria” and the “Business Plan Criteria” described below
4. Description of the development team, including details of how the development team meets the “Threshold Criteria” and the “Developer Background” criteria described below

#### **Design Plan**

1. Site Plan
2. Perspective Drawings

Business Plan

1. Market Analysis, including written description of plan to meet projections
2. Pro Forma, including written description of plan to meet projections
3. CEDBR Fiscal Impact Model (the developer is responsible for CEDBR's fee for this service)
4. Source of capital, including:
  - a. Evidence of developer equity
  - b. Third party rating of financial stability of lenders
  - c. Evidence of lender commitment
5. Amount and purpose of public investment sought
6. Repayment plan, if the City ordinarily requires a repayment plan or contingent repayment plan in connection with the type of incentive at issue
7. Backup repayment plan, including guarantors, if a repayment plan is required

Developer Background

1. Projected or existing financial statements (three years) and Dun & Bradstreet Financial Stress Score or other third party financial stability rating for:
  - a. Developer, development entity, and key project partners, as applicable
  - b. Guarantors (if different)
  - c. If desired, financial statements may be submitted separately to a designated third party for analysis and summary report to the City.
2. History/ownership/legal structure of the business, including:
  - a. Certificate of Good Standing from the Secretary of State
  - b. Tax Clearance Certificate from the Department of Revenue
3. Experience of the development team, including:
  - a. Experience with similar projects
  - b. Number of projects completed by the development team
  - c. Past project experience with the City of Wichita
  - d. References, especially from other municipalities that have worked with the development team
4. Banking references, including:
  - a. Credit history reports, including past credit defaults
  - b. Letters of good standing from previous lenders
5. Applicant Disclosure Questionnaire for:
  - a. Developer, development entity, and key project partners, as applicable
  - b. Guarantors (if different)

Parties that do not want their financial statements disclosed publicly may submit their financial statements directly to a third party financial analysis consultant selected by the City. The third party financial analysis consultant will keep the financial statements confidential and will provide a summary report of their analysis of the financial statements to the City of Wichita, which analysis will in all cases address whether the financial statements were audited, whether the statements were accompanied by an auditor's opinion that they fairly presented the financial condition of the submitting party or parties, and whether any of the statements contained an auditor's note concerning material or fundamental uncertainty or actual doubt as to the subject's ability to continue as a going concern.

## **EVALUATION PROCESS**

In considering a request for Downtown Development Incentives for a downtown development project, criteria will be evaluated regarding the public benefit of the project, the business plan for the project, and the developer's background and qualifications. An evaluation matrix (attached) will be used to evaluate projects on each criteria category. The evaluation matrix will be completed by an evaluation team that will collectively determine a single project score through team consensus. The evaluation team will be appointed by the City Manager and will include a diverse membership with representatives from the following:

- Development Assistance Director, Chairperson
- Downtown Revitalization Manager
- Urban Development Director
- Public Works/Engineering design representative
- Finance Department representative
- Law Department representative
- Two private sector business representatives
- One lender
- Two Wichita Downtown Development Corporation staff/members
- Other subject matter experts as warranted by the project
- Management Analyst (non-voting), staff support

A project will need to receive 70% of the available points in each of the three criteria categories in order to be considered for Downtown Development Incentives. If the evaluation determines that Downtown Development Incentives should be considered, the resulting rating from the evaluation matrix will determine the required form of the guarantee for public revenue shortfall and the debt service coverage ratio for public financing. Higher rated projects will receive the more favorable terms. If requested, parties requesting Downtown Development Incentives may modify their proposal after the initial evaluation in order to improve the terms through a subsequent evaluation. Final approval of Downtown Development Incentives will be by the City Council.

The minimum threshold and categorical criteria upon which a request for Downtown Development Incentives will be evaluated are:

### **Minimum Threshold Criteria for the Developer**

1. 10% equity
2. Guarantee for a proportional share of public revenue shortfall. For projects that involve multiple phases or developers, each phase or developer must provide a guarantee for a percentage of the public revenue shortfall proportional to that phase's or developer's portion of the overall project.
3. Letter of interest from primary lender or equity investor
4. Applicant Disclosure Questionnaire

Minimum Threshold Criteria for the Project

1. Consistency with Project Downtown's General Design Guidelines and Project Development Criteria. A Design Review Process has been established to determine a project's eligibility for this criterion.
2. Economic analysis confirms that the project is infeasible "but for" public investment.
3. Public investment is in a public asset as defined in Project Downtown.
4. Minimum private to public capital investment ratio of 2 to 1. For projects that involve multiple phases of private capital investment but up-front public capital investment that benefits all phases of development, the amount of private investment for a phase of development must be at least twice the proportion of public capital investment that directly benefits that phase of development.
5. Minimum public debt service coverage ratio of 1.2 to 1

Public Benefit/Compatibility with Overall Downtown Plan

1. Project Location/Design – Projects will be evaluated on the extent to which the project exceeds the General Design Guidelines and Project Development Criteria in the following four areas:
  - a. Location – Project Downtown identifies priority locations such as Catalyst Sites and Walkable Development Focus Areas. Projects will be evaluated on the extent to which they utilize these priority locations in a manner that fosters additional development on properties surrounding the project site. Projects also will be evaluated on the ability to connect existing downtown districts and nodes and on impacts to the transportation system, such as providing a strategic walking connection to the river or accommodating a key transit stop.
  - b. Design –The design of projects will be evaluated on the extent to which they exceed the minimum thresholds. Project Downtown encourages extraordinary design that contributes to Wichita's identity as a community of distinction. Additionally, the Project Development Criteria identifies encouraged design features for each downtown district as "optional criteria." Projects will be evaluated on the extent to which they contribute to community identity and include encouraged design features.
  - c. Land Use/Project Type –The Project Development Criteria identifies encouraged land uses for each downtown district as "optional criteria." Projects will be evaluated on the extent to which they include these encouraged land uses. Projects also will be evaluated on the extent to which they provide a new attraction, destination business, or major employer to the community.
  - d. Other – Developers are encouraged to propose projects that further other priorities identified in Project Downtown. Projects will be evaluated on the extent to which they accomplish additional Project Downtown priorities.
2. Return on Public Investment – The extent to which a project's return on public investment exceeds 1.3 to 1 on the Center for Economic Development and Business Research (CEDBR) Fiscal Impact Model will be evaluated.
3. Public Purpose – Projects will be evaluated on the extent to which they accomplish the following public purposes:
  - a. Public asset serves developments beyond the project site
  - b. Project helps accomplish Project Downtown vision and strategies
  - c. Project enhances the community's economic base



- d. Project promotes sustainability
- e. Other public benefits identified by the developer

#### Proposed Project Characteristics

1. Market Analysis – The project’s market analysis will be evaluated on the following criteria:
  - a. Extent that the current Project Downtown market analyses confirms project feasibility, or
  - b. Alternatively, confirmation of project feasibility by a separate third-party market analysis
2. Pro Forma – The project pro forma will be evaluated on the following criteria:
  - a. Rate of private investment return
  - b. Rents/prices consistent with performance of comparables
  - c. Projected rate of absorption consistent with performance of comparables
  - d. Long-term project solvency
3. Developer Equity – The amount and form of developer equity in the project will be evaluated.
4. Share of Public Funding – The extent to which private funding of the project exceeds the minimum threshold will be evaluated.
5. Lender Commitment – The financial stability of the lender and the form of lender commitment will be evaluated.

#### Current Experience and Creditworthiness of Developer

1. Financial Statements – The financial statements of the developer, development entity, key project partners, and guarantors will be evaluated on criteria such as the following:
  - a. Cash ratio of liquid assets to current liabilities
  - b. Debt/equity ratio
  - c. Debt service coverage ratio
  - d. Profit margin
  - e. Return on investment
  - f. Auditor’s opinion on fairness of presentation
  - g. Auditor’s opinion on appropriateness of going concern assumption
2. Developer Experience and Qualifications – The developer’s qualifications and experience will be evaluated on the following criteria:
  - a. Developer credit history
  - b. Letters of good standing from previous lenders
  - c. Dun & Bradstreet Financial Stress Score
  - d. Certificate of Good Standing from the Secretary of State and Tax Clearance Certificate from the Department of Revenue
  - e. Previous credit defaults by developer or key partners
  - f. Experience with similar projects
  - g. Number of projects completed by the development team
  - h. Past project experience with the City of Wichita
  - i. References, especially from other municipalities that have worked with the development team

## **DEVELOPMENT AGREEMENT REQUIRED**

Concurrently with, or prior to, the approval of Downtown Development Incentives by the City Council, the City and the developer shall enter into a Development Agreement governing the conduct of the respective parties in relation to the proposed downtown development project. The Development Agreement will include a site plan and elevation drawings or renderings of the project, and a Sources and Uses of Funds table that identifies the various sources of public and private project funds and how they will be used. Among all other provisions, the Development Agreement will set forth the method and manner for disbursement of funds by the respective parties to pay for eligible project costs as well the responsibilities and milestones of the respective parties in project completion. The assignment of Development Agreement rights to any third party assignee will require prior written consent of the City, which may be granted or withheld at the sole discretion of the City.

## **“GAP” FINANCING REQUIREMENT**

Approval of Downtown Development Incentives will require a financial analysis demonstrating that the project would not otherwise be possible without the use of the requested development incentive (“gap” analysis). Parties requesting Downtown Development Incentives will be required to provide the City pro forma cash flow analyses and sources and uses of funds in sufficient detail to demonstrate that reasonably available conventional debt and equity financing sources are not available to fund the entire cost of the project and still provide the developer a reasonable market rate of return on investment. The reasonableness of the rate of return on investment will be determined by dividing net operating income by development cost and comparing that rate to the overall capitalization rate for the land use(s) proposed. Parties requesting Downtown Development Incentives shall use current market conditions and input from local appraisers and lenders in determining the capitalization rate.

## **BACKGROUND CHECK**

The City will conduct a background check on all parties requesting Downtown Development Incentives as well as all project partners. Parties requesting Downtown Development Incentives are required to furnish the City the personal and business information needed to carry out such a background check.

## **CITY ADMINISTRATIVE FEES**

The City shall be paid a non-refundable application fee of \$8,500 with the formal submittal of a request for Downtown Development Incentives. Parties requesting Downtown Development Incentives are responsible for paying the fee charged by the third party financial analysis consultant for preparing a summary report of the applicant’s financial statements. The third party financial analysis consultant will be selected by the City through a competitive request for proposals process and will be “on call” to evaluate financial statements as applications are received. The fee charged by the third party financial analysis consultant will vary based on the complexity of the project with more complex projects requiring higher fees. Parties requesting Downtown Development Incentives are responsible for paying the fee charged by the Center for

Economic Development and Business Research (CEDBR) to run the Fiscal Impact Model for the project.

### **DESIGN GUIDELINES**

All projects must be consistent with Project Downtown's General Design Guidelines and Project Development Criteria in order for it to be eligible for Downtown Development Incentives. Consistency of project design with the Project Downtown guidelines will be determined by the Downtown Design Resource Center (DDRC). Parties requesting Downtown Development Incentives must participate in the design review process established by the DDRC prior to submitting their request.

All property improvements commenced under a project supported by Downtown Development Incentives shall be subject to City regulations, standards, and policies, including, but not limited to: zoning and subdivision regulations, building codes, the City code, and any applicable design guidelines currently in place or hereafter approved. In addition, project plans and renderings shall be reviewed by the City's Design Council and any suggestions provided by that body will be incorporated into the design of the project unless expressly overruled by the City Manager.

### **ANNUAL REPORTING**

Developers shall provide an annual report to the City no later than 30 days following the anniversary date of the Development Agreement. The annual report shall provide an account of all sources and uses of funds to pay private costs of the project. The City reserves the right to audit the account at its discretion and expense. The annual report also shall detail the developer's progress towards completing all responsibilities and milestones of project completion identified in the Development Agreement.

### **WAIVER OF POLICY**

Should the City Council determine the terms of this policy inappropriate to evaluate a particular request for Downtown Development Incentives, it may, by majority vote, waive or modify the binding effect of this policy in regard to that project.

PUBLIC-PRIVATE PARTNERSHIP EVALUATION MATRIX							
(4/20/11 revised)							
<b><u>MINIMUM SUBMITTAL CRITERIA FOR DEVELOPER:</u></b>							
Development entity or key partners provide at least 10% equity							
Development entity and/or key partners provide a proportional guarantee for public revenue shortfall							
Development entity and key partners pass City vetting process							
Submittal of Letter of Interest from primary lender or equity investor							
<b><u>MINIMUM SUBMITTAL CRITERIA FOR PROJECT:</u></b>							
Consistent with Project Downtown's general and district design guidelines							
Economic analysis confirms that project is infeasible "but for" public investment							
Public investment is in a public asset as defined in Project Downtown Plan							
Minimum proportional private to public capital investment ratio of 2 to 1							
Minimum public debt service coverage ratio of 1.2 to 1							

<u><b>PUBLIC BENEFIT/COMPATIBILITY WITH OVERALL DOWNTOWN PLAN</b></u>		(40 points possible)					
		Ttl Poss					
<u><b>PROJECT LOCATION/DESIGN</b></u>		18					
<b>LOCATION (extent project location fits Project Downtown priorities)</b>	Up to 5 points						
Project Downtown identifies priority locations such as Catalyst Sites and Walkable Development Focus Areas. Projects will be evaluated on the extent to which they utilize these priority locations in a manner that fosters additional development on properties surrounding the project site. Projects also will be evaluated on the ability to connect existing downtown districts and nodes and on impacts to the transportation system, such as providing a strategic walking connection to the river or accommodating a key transit stop.							
<b>DESIGN (extent project design fits priorities of Project Downtown)</b>	Up to 5 points						
The design of projects will be evaluated on the extent to which they exceed the minimum thresholds. Project Downtown encourages extraordinary design that contributes to Wichita's identity as a community of distinction. Additionally, the Project Development Criteria identifies encouraged design features for each downtown district as "optional criteria." Projects will be evaluated on the extent to which they contribute to community identity and include encouraged design features.							
<b>LAND USE/PROJECT TYPE fits priorities of Project Downtown</b>	Up to 5 points						
The Project Development Criteria identifies encouraged land uses for each downtown district as "optional criteria." Projects will be evaluated on the extent to which they include these encouraged land uses. Projects also will be evaluated on the extent to which they provide a new attraction, destination business, or major employer to the community.							
<b>OTHER LOCATION/DESIGN BENEFITS documented by developer</b>	Up to 3 points						
<u><b>RETURN ON PUBLIC INVESTMENT</b></u>		5	<b>5 points</b>	<b>4 points</b>	<b>3 points</b>	<b>2 points</b>	<b>1 point</b>
Extent City's ROI exceeds benefit/cost ratio of 1.3:1 on CEDBR Model			2.5:1+	2.2-2.5:1	1.9-2.2:1	1.6-1.9:1	1.3-1.6:1
<u><b>PUBLIC PURPOSE</b></u>		17	<b>5 points</b>	<b>4 points</b>	<b>3 points</b>	<b>2 points</b>	<b>1 point</b>
Extent public asset serves developments beyond the project			Except.	Signif.	Moderately		
Extent that project helps accomplish Project Downtown vision & strategies				Except.	Signif.	Moderately	
Extent that project enhances the community's economic base					Except.	Signif.	Moderately
Extent that project promotes environmental sustainability						Signif.	Moderately
Other public benefits as documented by Developer	Up to 3 points						

<b><u>PROPOSED PROJECT CHARACTERISTICS</u></b>	(35 points possible)						
		Ttl poss					
<b><u>BUSINESS PLAN ASSESSMENT</u></b>		10					
<b>MARKET ANALYSIS</b>	Up to 4 points						
a) Project Downtown market analysis confirms project feasibility							
b) Alternatively, confirmation of project feasibility by 3rd party analysis							
<b>PRO FORMA ANALYSIS</b>	Up to 6 points					<b>2 points</b>	<b>1 point</b>
a) Extent private ROI falls within contemporary market standards							Meets
b) Projected rents/prices consistent with performance of comparables						Signif.	Moderately
c) Projected rate of absorption consistent with performance of comps						Signif.	Moderately
d) Long-term solvency of the project							Likely
<b><u>DEVELOPER EQUITY THIS PROJECT</u></b>		15	<b>10 points</b>	<b>8 points</b>	<b>6 points</b>	<b>4 points</b>	<b>2 points</b>
Extent equity exceeds minimum threshold (min 10%)			30% +	25-29%	20-24%	15-19%	11-14%
			<b>5 points</b>	<b>4 points</b>	<b>3 points</b>	<b>2 points</b>	<b>1 point</b>
Firmness of equity commitment			Escrow	Bond/LOC		Guaranty	
<b><u>SHARE OF PUBLIC FUNDING</u></b>		5	<b>5 points</b>	<b>4 points</b>	<b>3 points</b>	<b>2 points</b>	<b>1 point</b>
Extent private to public investment ratio exceeds 2:1			>6:1	>5:1	>4:1	>3:1	>2:1
<b><u>LENDER COMMITMENT</u></b>		5			<b>3 points</b>	<b>2 points</b>	<b>1 point</b>
<b>FINANCIAL STABILITY OF LENDER</b>							
a) Bank or Other Company -3rd Party Rating					Superior	Above Average	Average
b) Individual -Personal Credit Score (FICO)							750 +
<b>FIRMNESS OF LENDER COMMITMENT</b>							
a) Commitment letter without conditions (no City contingency)						Yes	
b) Commitment letter with conditions							Yes

<b><u>CURRENT EXPERIENCE AND CREDITWORTHINESS OF DEVELOPER</u></b>		(25 points possible)					
		Ttl poss					
<b><u>FINANCIAL STATEMENT</u></b>	Up to 10 points						
<b><u>(COW hires 3rd party for analysis of investors)</u></b>							
<b>Items analyzed by 3rd party include:</b>							
Cash ratio - liquid assets/current liabilities							
Debt/equity ratio - total liabilities/equity							
Debt service coverage ratio - net income/debt service							
Profit margin - net income/total revenue							
Return on investment - net income/average equity							
<b><u>DEVELOPER EXPERIENCE &amp; QUALIFICATIONS</u></b>		15			<b>2 points</b>	<b>1 point</b>	
Developer credit history					Excellent	Good	
Letters of good standing from lenders in previous projects					2 or more	One	
D & B or other rating					Excellent	Good	
Letter from State Dept of Revenue						Yes	
Extent of defaults by development entity or key partners					Never	0 last 10 yrs	
Experience with similar public-private projects, completed by same development team					2 or more	One	
References, especially from other municipal partners						Yes	
Other experience documented by the Developer	Up to 3 points						

City of Wichita  
City Council Meeting  
May 17, 2011

**TO:** Mayor and City Council

**SUBJECT:** City-County Economic Development Grant Agreement with Hawker Beechcraft Corporation (District II)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

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**Recommendation:** Approve the economic development grant agreement and place the Home Rule Ordinance on first reading.

**Background:** In 2010, Hawker Beechcraft Corporation (“HBC”) announced it was considering moving a significant amount of production work from its Wichita plant to an undisclosed location in the southeast United States. In separate meetings with State of Kansas officials and City officials, the potential scope of the possible relocation project was discussed, along with the opportunity for state and local financial assistance to significantly reduce the downsizing.

On October 5, 2010, Governor Mark Parkinson announced a tentative agreement to provide state assistance to retain HBC jobs in Wichita, subject to a new labor agreement being approved by both HBC and the International Association of Machinists. The union vote to approve the negotiated labor contract was defeated on October 16, 2010.

Discussions between HBC and state and local officials resumed and on December 21, 2010 Governor Parkinson, Mayor Brewer and County Chair Peterjohn joined CEO Bill Boisture to announce an agreement that will guarantee that HBC will continue to be a major Wichita employer in exchange for state and local economic development incentives, the local incentives being subject to governing body approvals.

**Analysis:** The incentive package offered HBC includes grants totaling \$40,000,000 from the State of Kansas and \$5,000,000 combined from the City of Wichita and Sedgwick County (\$2,500,000 each).

The State incentives are provided through the Investments in Major Projects and Comprehensive Training (IMPACT) Program. This program provides major projects investments (MPI) that can be used to defray any project-related cost and funding for workforce training projects (SKILL), which are carried out through agreements with community colleges, area vocational schools or state universities. Funding for IMPACT incentives comes from bonds issued by the Kansas Development Finance Authority that are repaid by withholding taxes on new or retained employees of the company receiving the incentives.

The State IMPACT incentive offer to HBC includes:	\$30,000,000	MPI*
	<u>\$10,000,000</u>	SKILL
	\$40,000,000	Total

\* MPI funds will be disbursed in the amount of \$10,000,000 on January 15, 2011 and \$5,000,000 each January 15<sup>th</sup> in 2012, 2013, 2014 and 2015.



The agreement between the State and HBC concerning IMPACT incentives requires HBC to employ at least 4,000 employees and to maintain its corporate headquarters in Wichita until at least the year 2020, and with certain exceptions, to perform final assembly, completion, painting and delivery on all current HBC product lines in Wichita. If at the end of any year during the five-year pay-out period, HBC employs fewer than 4,000 workers, the subsequent incentive payment will be reduced proportionally. If the job count is less than 90% of 4,000 (3,600) at the end of any year after the pay-out period (until 2020), HBC will be subject to repayment of a proportional share of the MPI funds (not-to-exceed \$14,000,000).

The attached City-County Economic Development Grant Agreement incorporates the State IMPACT agreement by reference and specifically incorporates the relevant performance payment and incentive repayment provisions of the State agreement. The first installment of the City and County's incentive payments will be due 15 days following execution of the agreement. The next four installments will be due within 30 days of State's incentive payment for that year. Each annual incentive payment will be in the amount of \$1,000,000 (\$500,000 each from the City and County) unless reduced by HBC's failure to employ at least 4,000 workers in Wichita.

**Financial Considerations:** The City's share of \$2,500,000 will be paid in \$500,000 annual installments from monies appropriated in the Economic Development Fund for that purpose.

**Goal Impact:** Economic Vitality and Affordable Living. Maintaining Wichita's preeminent position in the aircraft manufacturing industry is a critical component of the region's economic prosperity.

**Legal Considerations:** The attached Economic Development Grant Agreement has been approved as to form by the Department of Law. Approval of cash incentives paid to private businesses requires authorization by means of home rule ordinance.

**Recommendations/Actions:** It is recommended that the City Council approve the Economic Development Incentive Agreement with Hawker Beechcraft Corporation, place the Home Rule Ordinance on first reading and authorize necessary signatures.

**Attachments:** Economic Development Incentive Agreement  
Home Rule Ordinance

**ECONOMIC DEVELOPMENT GRANT AGREEMENT**

**By and Among**

**HAWKER BEEHCRAFT CORPORATION**

**THE CITY OF WICHITA, KANSAS,**

**And**

**SEDGWICK COUNTY, KANSAS**

**Dated as of  
May \_\_, 2011**

This Economic Development Grant Agreement (the “Agreement”) is entered into as of May \_\_, 2011 by and among Hawker Beechcraft Corporation (the “Company”), the City of Wichita, Kansas (the “City”) and Sedgwick County, Kansas (the “County”).

#### WITNESSETH

**WHEREAS**, pursuant to a certain Workforce Services Training Agreement dated as of December 21, 2010, and attached hereto as “Exhibit B” (the “State Impact Agreement”), by and between the Company and the Kansas Department of Commerce (hereinafter, “KDOC”), the KDOC covenanted to use its reasonable efforts to cause the City and County to enter into an agreement to provide to the Company a \$5,000,000 grant; and,

**WHEREAS**, the Governing Bodies of the City and County have found that it is in the best interests of the City and County to enter into this Agreement to provide for a \$5,000,000 economic development grant to the Company, on terms similar to those established for the Major Project Investment (“MPI”) payments under the State Impact Agreement;

**NOW, THEREFORE**, in consideration of the premises and the mutual representations and agreements hereinafter contained the parties hereto agree as follows:

#### ARTICLE I DEFINITIONS

As used herein, the following words and phrases shall have the following meanings:

“Agreement” means this Agreement.

“Existing Job” means any job or position of employment with the Company at any of its facilities in Sedgwick County, Kansas which is filled by an employee of the Company as of January 1, 2011. For purposes of this Agreement, the number of Existing Jobs as of January 1, 2011 shall be deemed to be 4000. The method for calculating Existing Jobs on Job Commitment Dates is set forth on Schedule 1 to this Agreement.

“Expiration Date” means December 31, 2020.

“Grant Repayment Amount” means any amount the Company is required to repay to the City and County if the Company fails to retain at least the Required Minimum Number of Existing Jobs measured as of the Job Commitment Dates for Contract Years 6, 7, 8, 9 and 10 of this Agreement as set forth on Schedule 1 to this Agreement. Any Grant Repayment Amount shall be calculated by subtracting the Performance Percentage on the applicable Job Commitment Date from 100% and multiplying it by the actual amount of money received from the City and County in the Contract Year five years prior to the applicable Job Commitment Date.

“Job Commitment Dates” means the dates on which the Company is required by the State Impact Agreement to have met job retention requirements and which dates are identified on Schedule 1 to this Agreement and in the Draft Scope of Services.

“Performance Percentage” means the total number of Existing Jobs on each Job Commitment Date divided by 4,000.

“Project” means the Project as defined in the State Impact Agreement.

“Project Facilities” means the facilities so defined in the State Impact Agreement.

“Required Minimum Number of Existing Jobs” means 3600 Existing Jobs.

“Repayment Amount” means \$5,000,000 reduced by the amount of any Grant Repayment Amount.

“Term of this Agreement” means the period from the date hereof to the Expiration Date.

## **ARTICLE II REPRESENTATIONS AND WARRANTIES AND COVENANTS**

Section 2.1. Representations and Warranties of the Company. The Company extends to the City and County the same representations and warranties it has made to KDOC pursuant to Section 2.1 of the State Impact Agreement.

Section 2.2. Covenants of the Company. The Company covenants as follows:

- (a) It will honor and perform the covenants made to KDOC in Section 2.2(b) and (c), of the State Impact Agreement, and hereby extends such covenants to the City and County.
- (b) Subject to, and in accordance with the terms and conditions set forth in this Agreement, the Company agrees to retain 4000 Existing Jobs in Sedgwick County, Kansas.
- (c) To the extent permitted by law, the Company agrees to use reasonable commercial efforts to source to Kansas employers and vendors any outsourced activities and production work which had been performed in Kansas over the twelve (12) months preceding December 21, 2010 and which the Company determines will no longer be performed or sourced at its Kansas facilities provided that such Kansas employers and vendors are competitive in price, quality and delivery (the “Kansas Outsourcing Efforts”); however, the Company retains ultimate discretion over such decisions, and choosing to contract with others shall not constitute a default hereunder.
- (d) The Company covenants and agrees to keep its corporate headquarters in Sedgwick County, Kansas until December 31, 2020.

Section 2.3. Representations and Warranties of the City and County. Each of the City and County hereby respectively represents and warrants to the Company as follows:

- (a) It has all the requisite power and authority to enter into this Agreement and to carry out the obligations on its part set forth herein; and the person signing this Agreement on its behalf has the authority to so execute this Agreement and bind it to all the terms of this Agreement.

- (b) This Agreement has been duly authorized, executed and delivered by it and constitutes on its part a legal, valid, and binding obligation, enforceable in accordance with its terms.

Section 2.4. Covenants of the City and County. Each of the City and County respectively covenants and agrees to provide its respective \$2,500,000 share of an aggregate \$5,000,000 economic development grant to the Company, subject to the terms and conditions of this Agreement.

### **ARTICLE III PAYMENTS TO THE COMPANY**

Section 3.1. 2011 Payment. Within 14 days of execution of this Agreement, each of the City and County will make a payment to the Company in the amount of \$500,000.

Section 3.2. Payments for 2012 through 2015. In each of the years 2012 through 2015, if the Company has at least 3600 Existing Jobs on the Job Commitment Date immediately prior to each subsequent Required Payment Date, as set forth in the table below, the City and the County will in the aggregate pay to the Company the amounts set forth in the table below.

<b>Job Commitment Date</b>	<b>Required Payment Date</b>	<b>Aggregate Amount Payable by the City and County</b>
Not Applicable	Within 14 days after the date hereof	\$1 million
December 31, 2011	February 15, 2012	\$1 million
December 31, 2012	February 15, 2013	\$1 million
December 31, 2013	February 15, 2014	\$1 million
December 31, 2014	February 15, 2015	\$1 million

If February 15<sup>th</sup> falls on either a weekend or a holiday, the City and County shall make such payment on the immediately following business day.

In the event the Company fails to meet the Required Minimum Number of Existing Jobs as of any of the Job Commitment Dates set forth in the table above, then the payment for that year shall be reduced in an amount proportionate to the Performance Percentage shortfall. For example, if on December 31, 2011, the Company has 2,500 Existing Jobs, then on February 15, 2012 it shall be entitled to a payment of \$625,000 ( $2,500/4,000 = 62.5\%$  of Performance Percentage x \$1,000,000 payment.)

The City and County will use their respective reasonable best efforts to contact KDOC during the second week of January in each year until 2015 to determine KDOC's calculation of the Existing Jobs and to pay its required payment as promptly as practicable thereafter. The Company, the City and the County understand and agree that Section 5.8 of the State Impact Agreement titled "Confidential Information" shall neither prohibit nor limit in any manner the provision of data or material from KDOC to the City and the County, whether in written or electronic form, to meet the intent of this provision. Such information shall be subject to the nondisclosure protections in Section 5.7 of this Agreement.

## **ARTICLE IV EVENTS OF REPAYMENT AND REMEDIES**

Section 4.1. Events and Terms of Repayment. The Company is subject to the following repayment terms and conditions. Each of the following shall be an “event of repayment”:

- (a) Any material representation or warranty made by the Company herein or any statement in any report, certificate, financial statement or other instrument furnished in connection with this Agreement shall at any time prove to have been intentionally false or misleading in any material respect when made or given. In such event, the Company shall pay to the City and County the Repayment Amount.
- (b) If as of any Job Commitment Date in Contract Years 6, 7, 8, 9, and 10 of this Agreement, as set forth on Schedule 1 to the State Impact Agreement, the Company fails to meet a Performance Percentage of 90% or greater then the Company will be required to pay to the City and County the Grant Repayment Amount.

For example: If, at the end of Contract Year 6, the Company has 2,500 Existing Jobs (as calculated using the method set forth on Schedule 1 to this Agreement) and received at least \$1,000,000 from the City and County in Year 1, the Company would be subject to the following payback requirement:

$100\% \text{ minus } 62.5\% (2,500/4,000) = 37.5\% \times \$1,000,000.$  A Grant Repayment Amount of \$375,000 would be due.

Another example is the following: If at the end of Contract Year 7, the Company has 2,500 Existing Jobs (as calculated using the method set forth on Schedule 1 to this Agreement) and received \$800,000 in Year 2, the Company would be subject to the following payback requirement:

$100\% \text{ minus } 62.5\% (2,500/4,000) = 37.5\% \times \$800,000.$  A Grant Repayment Amount of \$300,000 would be due.

Section 4.2. Force Majeure. Should the Company fail to perform its responsibilities pursuant to the terms of this Agreement by reason of fire, lightning, tornado, wind damage, tempest, riot, war, terrorism, or unusual delay by common carriers, unavoidable casualties, or by any other cause considered an act of God, otherwise considered “Force Majeure” beyond the control of the Company and such events would otherwise cause the Company to be in default under the terms of this Agreement, then the Company shall be permitted a reasonable extension of time to cure or resolve its failure to perform. Such time period shall be mutually agreed to by the City and County and the Company to cure any such default caused by Force Majeure and during this period the Company shall not be deemed to be in default under this Agreement with respect to the subject of such Force Majeure. In the event of a production interruption (such as labor stoppage, supply chain disruption, etc.), the Company, the City and County may agree to

suspend performance under this Agreement for a mutually acceptable period of time. Any such suspension shall be without penalty to any party.

Section 4.3. City or County Breach. If the Company is unable to perform any obligation under this Agreement due to a breach by the City or County of their respective responsibilities or obligations under this Agreement, the Company shall be released from any such requirement.

Section 4.4. Remedies. Whenever an event of repayment shall have happened and be continuing, the City and County may terminate disbursement of any unexpended funds and divert such amounts to any public purpose, and/or take whatever action at law or in equity may appear necessary or desirable to collect any payment and other amounts then due and thereafter to become due from the Company hereunder, or to enforce observance of any other obligation or agreement of the Company under this Agreement.

Section 4.5. No Remedy Exclusive. No remedy conferred upon or reserved to any party by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle any party to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be expressly required herein.

Section 4.6. Waivers and Amendments. In the event any agreement contained in this Agreement should be breached by any party and thereafter waived by the other parties, such waiver must be in writing and the waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. This Agreement may be amended only upon the written consent and approval of all parties.

## **ARTICLE V MISCELLANEOUS**

Section 5.1. Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

Section 5.2. Severability. If any provisions of this Agreement, or any covenant, stipulation, obligation, agreement, act or action, or part thereof made, assumed, entered into or taken thereunder or any application thereof, is for any reason held to be illegal or invalid, such illegality or invalidity shall not affect any other provision or any other covenant, stipulation, obligation, agreement, act or action or part thereof, made, assumed, entered into, or taken, each of which shall be construed and enforced as if such illegal or invalid portion were not contained herein. Nor shall such illegality or invalidity of any application thereof affect any legal and valid application thereof, and each such provision, covenant, stipulation, obligation, agreement, act or action, or part shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

Section 5.3. Governing Law; Venue. This Agreement shall be governed exclusively by and construed in accordance with the laws of the State of Kansas. In the event of any dispute, the exclusive venue for such dispute shall be the state or federal courts located in the State of Kansas.

Section 5.4. Notices. All notices, requests or other communications hereunder shall be in writing and shall be deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, addressed to the parties at their respective addresses shown below:

To the Company:

Hawker Beechcraft Corporation  
10511 East Central  
Wichita, Kansas 67206

Attention: Chief Financial Officer

With a copy to:

Hawker Beechcraft Corporation  
10511 East Central  
Wichita, Kansas 67206

Attention: General Counsel

To the City:

The City of Wichita, Kansas  
Office of the City Clerk  
455 N. Main Street – 12<sup>th</sup> Floor  
Wichita, Kansas 67202

To the County:

Sedgwick County Legal Department  
Attn: Contract Notification  
Sedgwick County Courthouse  
525 N. Main, Suite 359  
Wichita, KS 67203-3790

With a copy to:

Division of Community Development  
Attn: Irene Hart, Director  
510 N. Main, Rm. 602  
Wichita, KS 67203

The respective parties hereto may, by notice given hereunder, designate any further or different addresses to which subsequent notices, requests or other communications shall be sent.



Section 5.5. Assignment. This Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the parties signatory hereto and their respective permitted successors and assigns provided that this Agreement may not be assigned by the Company without the express written consent of the City and County which consent shall not be unreasonably withheld.

Section 5.6. Cash Basis and Budget Laws. The rights of the City and County to enter into this Agreement are subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the City and County shall at all times stay in conformity with such laws, and as a condition of this Agreement the City and County reserve the right to unilaterally sever, modify, or terminate this Agreement at any time if, based on the written opinion of their respective legal counsel, the Agreement violates the terms of such laws, or if mill levy funds generated are less than anticipated.

Section 5.7. Confidential Information. Unless required to be publicly disclosed by K.S.A. 46-1101 *et seq.*, K.S.A. 45-220 *et seq.*, or as otherwise required by law, the information provided pursuant to this Agreement (“Confidential Information”) shall be considered confidential and shall not be disclosed to the public without the consent of the Company. The City and County shall use their respective best efforts to protect the Confidential Information from accidental, inadvertent, or negligent disclosure and shall, immediately upon receipt of a request for disclosure pursuant to K.S.A. 46-1101 *et seq.*, K.S.A. 45-220 *et seq.*, or if otherwise required by law, provide notice of such request to the Company so that the Company may seek a protective order or other appropriate remedy or consent to the disclosure of such information. In the event that no such protective order or other remedy is obtained by the Company, or if the Company does not waive compliance with the terms of this Agreement within the time period required by K.S.A. 46-1101 *et seq.*, K.S.A. 45-220 *et seq.*, or as otherwise required by law, the City and County will furnish to the public that portion of the Confidential Information which it is advised by counsel is required to be disclosed, and will exercise reasonable efforts to obtain reliable assurance that confidential treatment will be accorded the Confidential Information, if any, not required to be disclosed.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed and dated as of May \_\_, 2011.

**HAWKER BEECHCRAFT CORPORATION**

By \_\_\_\_\_  
W.W. Boisture, Jr., Chief Executive Officer

**CITY OF WICHITA, KANSAS**

By \_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Gary E. Rebenstorf, City Attorney  
BOARD OF COUNTY COMMISSIONERS  
OF SEDGWICK COUNTY

\_\_\_\_\_  
Dave Unruh, Chairman

ATTEST:

\_\_\_\_\_  
Kelly Arnold, County Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant County Counselor

SCHEDULE 1

Contract Year	Applicable Twelve Month Period	Job Commitment Date	Calculation of Existing Jobs
1	January 1, 2011 – December 31, 2011	December 31, 2011	Actual Number on Job Commitment Date
2	January 1, 2012 – December 31, 2012	December 31, 2012	Actual Number on Job Commitment Date
3	January 1, 2013 – December 31, 2013	December 31, 2013	Actual Number on Job Commitment Date
4	January 1, 2014 – December 31, 2014	December 31, 2014	Actual Number on Job Commitment Date
5	January 1, 2015 – December 31, 2015	December 31, 2015	Contract Year 3 Existing Jobs plus Contract Year 4 Existing Jobs plus Contract Year 5 Existing Jobs divided by 3
6	January 1, 2016 – December 31, 2016	December 31, 2016	Contract Year 4 Existing Jobs plus Contract Year 5 Existing Jobs plus Contract Year 6 Existing Jobs divided by 3
7	January 1, 2017 – December 31, 2017	December 31, 2017	Contract Year 5 Existing Jobs plus Contract Year 6 Existing Jobs plus Contract Year 7 Existing Jobs divided by 3
8	January 1, 2018 – December 31, 2018	December 31, 2018	Contract Year 6 Existing Jobs plus Contract Year 7 Existing Jobs plus Contract Year 8 Existing Jobs divided by 3
9	January 1, 2019 – December 31, 2019	December 31, 2019	Contract Year 7 Existing Jobs plus Contract Year 8 Existing Jobs plus Contract Year 9 Existing Jobs divided by 3
10	January 1, 2020 – December 31, 2020	December 31, 2020	Contract Year 8 Existing Jobs plus Contract Year 9 Existing Jobs plus Contract Year 10 Existing Jobs divided by 3

(PUBLISHED IN THE WICHITA EAGLE ON MAY 27th, 2011)

ORDINANCE NO. 49-013

AN ORDINANCE OF THE CITY OF WICHITA, KANSAS, AUTHORIZING, PRESCRIBING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN ECONOMIC DEVELOPMENT GRANT AGREEMENT BY AND AMONG HAWKER BEECHCRAFT CORPORATION, THE CITY OF WICHITA, KANSAS, AND SEDGWICK COUNTY, KANSAS.

WHEREAS, the City of Wichita, Kansas (the “City”) is authorized by Article 12, Section 5, of the Kansas Constitution to determine, by ordinance, its local affairs and government; and,

WHEREAS, the Governing Body of the City finds and determines that it is desirable to act in cooperation with Sedgwick County (the “County”) and the State of Kansas in order to promote, stimulate and develop the general economic welfare and prosperity of the City, the County and the State of Kansas, by taking action to approve an Economic Development Grant Agreement, conditioned on local job creation and retention, local headquarters retention, and certain other factors, to assist Hawker Beechcraft Corporation in maintaining existing jobs in its manufacturing operations within Sedgwick County, Kansas; and,

WHEREAS, pursuant to a certain Workforce Services Training Agreement dated as of December 21, 2010 (the “State Impact Agreement”), by and between Hawker Beechcraft Corporation and the Kansas Department of Commerce (hereinafter, “KDOC”), the KDOC covenanted to use its best efforts to cause the City and County to enter into an agreement to provide to the Company a \$5,000,000 grant; and,

WHEREAS, the Governing Body of the City has found that it is in the best interests of the City to enter into such an agreement whereby the City and the County will each provide a \$2,500,000 economic development grant to the Company, on terms similar to those established for the Major Project Investment (“MPI”) payments under the State Impact Agreement;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS AS FOLLOWS:

Section 1. Findings Relating to Economic Development Grant Agreement. The City’s Governing Body hereby finds that providing a conditional grant to Hawker Beechcraft Corporation, in five annual installments, aggregating up to a maximum amount of \$2,500,000, as specified in the Economic Development Grant Agreement submitted to the Governing Body concurrently herewith, will advance economic development in the environs of the City of Wichita, Kansas and will serve a public purpose.

Section 2. Authorization of the Economic Development Grant Agreement. The Mayor of the City of Wichita, Kansas is hereby authorized and directed to execute and deliver the Economic Development Grant Agreement presented herewith, by and among the City of Wichita, Kansas, Sedgwick County, Kansas, and Hawker Beechcraft Corporation, for and on behalf of and

as the act and deed of the City with such minor corrections or amendments thereto as the Mayor shall approve (which approval shall be evidenced by his execution thereof) and any such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the purposes and intent of this Ordinance. The City Clerk and any Deputy City Clerk of the City are hereby authorized and directed to attest the execution of the Economic Development Grant Agreement, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 3. Further Authority. The City shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance.

Section 4. Effective Date. This Ordinance shall take effect and be in full force from and after its adoption by the Governing Body of the City of Wichita, Kansas and publication once in the official newspaper of the City.

PASSED by the Governing Body of the City of Wichita, Kansas, this 24th day of May, 2011.

Approved by the Mayor:

CITY OF WICHITA, KANSAS

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Carl Brewer, Mayor

ATTEST:

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Karen Sublett, City Clerk  
[Seal]

APPROVED AS TO FORM:

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Gary E. Rebenstorf, City Attorney

**City of Wichita  
City Council Meeting  
May 17, 2011**

**TO:** Mayor and City Council

**SUBJECT:** Public Hearing and Issuance of Industrial Revenue Bonds (Four-G, LLC)  
(District I)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

**Recommendation:** Close the public hearing and place the ordinance on first reading.

**Background:** On February 2, 2010, City Council approved a letter of intent for economic development incentives, including issuance of not-to-exceed \$12,000,000 in industrial revenue bonds (IRBs), for the benefit of Four-G, LLC to promote the development of a Marriott Fairfield Inn and Suites Hotel as part of the WaterWalk Redevelopment Project, located immediately south of the WaterWalk Place at the northwest corner of Main Street and Dewey Avenue in Downtown Wichita. The IRB financing is the basis for granting a sales tax exemption on construction materials and hotel furnishing and equipment financed by the IRBs. Four-G, LLC is requesting the issuance of the IRBs at this time.

**Analysis:** Four-G, LLC is wholly owned by Jim Korrock who has developed and owns three other Marriott hotels in Wichita, including the Courtyard by Marriott Hotel in Old Town, and the Residence Inn and the Springhill Inn and Suites hotels in the Plazzio development at 13<sup>th</sup> Street North and Greenwich Road. The Marriott Fairfield Inn and Suites Hotel is located immediately south of the WaterWalk Place at the northwest corner of Main Street and Dewey Avenue in Downtown Wichita. The hotel is a limited service hotel with 130 rooms, an indoor pool and fitness center, a lobby bar and dining room. Under the terms of the Development Agreement, the developer will provide room service at the hotel, catered by a nearby restaurant, from 6 p.m. to midnight every day.

The construction of the hotel is now complete. The construction loan will be refinanced with the issuance of IRBs, which will be initially purchased by the construction loan lender and then later redeemed with the proceeds of a permanent commercial loan insured by the Small Business Administration.

**Financial Considerations:** Four-G, LLC agrees to pay all costs of issuing the industrial revenue bonds and agrees to pay the City's \$2,500 annual administrative service fee for as long as the bonds are outstanding. Because the project is located within a tax increment financing project area, it is not eligible for a property tax exemption. The project is eligible for sales tax exemption on all bond-financed purchases of taxable personal property, such as construction materials and hotel furnishings and equipment. The total value of the sales tax exemption is estimated to be \$328,945.

Wichita State University's Center for Economic Development and Business Research has conducted a fiscal impact analysis to measure the City's return on its investment in this project. The results of the analysis show the following ratios of benefits-to-costs:

City of Wichita	1.77 to one
City General Fund	1.55 to one
Sedgwick County	54.36 to one
State of Kansas	15.57 to one

**Goal Impact:** Economic Vitality and Affordable Living; Core Area and Neighborhood. Development of a hotel in the WaterWalk area will provide a major impetus to the success of an anchor for downtown revitalization.

**Legal Considerations:** The attached ordinance and all bond documents have been reviewed and approved as to form by the Law Department.

**Recommendations/Actions:** It is recommended that the City Council close the public hearing and place on first reading the Bond Ordinance authorizing the execution and delivery of documents for the issuance of Industrial Revenue Bonds in an amount not-to-exceed \$12,000,000 for Four-G, LLC, and authorize the necessary signatures.

**Attachments:** Bond Ordinance

(Published in *The Wichita Eagle*, May 24, 2011)

**ORDINANCE NO. 49-014**

AN ORDINANCE AUTHORIZING THE CITY OF WICHITA, KANSAS, TO ISSUE ITS REVENUE BONDS, SERIES II, 2011 (FOUR-G, LLC) (TAXABLE UNDER FEDERAL LAW), IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$9,574,400 FOR THE PURPOSE OF CONSTRUCTING, ACQUIRING AND EQUIPPING A COMMERCIAL FACILITY; AND AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE BONDS.

**WHEREAS**, the City of Wichita, Kansas (the “Issuer”), is authorized by K.S.A. 12-1740 *et seq.*, as amended (the “Act”), to acquire, construct, improve and equip certain facilities (as defined in the Act) for commercial, industrial, recreational and manufacturing purposes, to enter into leases and lease-purchase agreements with any person, firm or corporation for such facilities, and to issue revenue bonds for the purpose of paying the costs of such facilities; and

**WHEREAS**, pursuant to the Waterwalk Ground Lease No. 4 dated as of June 30, 2010 (the “Original Lease”), the Issuer has previously leased certain land owned by the City (the “Premises” as defined in the hereinafter described Lease) to Four-G, LLC, a Kansas limited liability company (the “Tenant”); and

**WHEREAS**, the Issuer has found and does find and determine that it is desirable in order to promote, stimulate and develop the general welfare and economic prosperity of the Issuer and the State of Kansas that the Issuer issue its Industrial Revenue Bonds, Series II, 2011, in the aggregate principal amount of not to exceed \$9,574,400 (the “2011 Bonds”), for the purpose of paying the costs of constructing, acquiring and equipping a facility to be used for commercial purposes and located on the Premises (the “Bond Improvements”) as more fully described in the Indenture (as herein defined) and the Lease (as herein defined) and to amend the Original Lease to provide for the lease of the Bond Improvements by the Issuer to the Tenant; and

**WHEREAS**, the 2011 Bonds and the interest thereon shall not be a general obligation of the Issuer, shall not be payable in any manner by taxation and shall be payable solely from the trust estate established under the Indenture, including revenues from the Lease of the Bond Improvements; and

**WHEREAS**, the Issuer further finds and determines that it is necessary and desirable in connection with the issuance of the 2011 Bonds to execute and deliver (i) a Trust Indenture dated as of June 1, 2011 (the “Indenture”), with UMB Bank, N.A., as trustee (the “Trustee”), prescribing the terms and conditions of issuing and securing the 2011 Bonds; (ii) a First Amendment to Waterwalk Ground Lease No. 4 dated as of June 1, 2011 (the “Lease Amendment”), with the Tenant which



amends the Original Lease and provides for the payments of Basic Bond Rent (as defined in the Lease Amendment) and other payments provided for therein, (iii) a Bond Placement Agreement dated as of June 1, 2011 (the “BPA”), with Standard Insurance Company, as purchaser of the 2011 Bonds and the Tenant, and (iv) an Administrative Service Fee Agreement between the Issuer and the Tenant (collectively, the “Bond Documents”);

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:**

**Section 1. Authority to Cause the Bond Improvements to be Constructed, Acquired and Equipped.** The Governing Body of the Issuer hereby declares that the Bond Improvements, if in being, would promote the welfare of the City of Wichita, Kansas, and the Issuer is hereby authorized to cause the Bond Improvements to be constructed, acquired and equipped all in the manner and as more particularly described in the Indenture and the Original Lease as amended by the Lease Amendment (collectively, the “Lease”).

**Section 2. Authorization of and Security for the 2011 Bonds.** The Issuer is hereby authorized and directed to issue the 2011 Bonds, to be designated “City of Wichita, Kansas, Industrial Revenue Bonds, Series II, 2011 (Four-G, LLC) (Taxable Under Federal Law),” in the aggregate principal amount of not to exceed \$9,574,400. The 2011 Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued in the manner prescribed and subject to the provisions, covenants and agreements set forth in the Indenture. The 2011 Bonds shall be special limited obligations of the Issuer payable solely from the trust estate established under the Indenture, including revenues from the lease of the Bond Improvements. The 2011 Bonds shall not be general obligations of the Issuer, nor constitute a pledge of the full faith and credit of the Issuer and shall not be payable in any manner by taxation.

**Section 3. Lease of the Bond Improvements.** The Issuer shall cause the Bond Improvements to be leased to the Tenant pursuant to and in accordance with the provisions of the Lease in the form approved herein.

**Section 4. Execution of 2011 Bonds and Bond Documents.** The Mayor of the Issuer is hereby authorized and directed to execute the 2011 Bonds and deliver them to the Trustee for authentication on behalf of, and as the act and deed of the Issuer in the manner provided in the Indenture. The Mayor is further authorized and directed to execute and deliver the Bond Documents on behalf of, and as the act and deed of the Issuer in substantially the forms presented for review prior to final passage of this Ordinance, with such minor corrections or amendments thereto as the Mayor may approve, which approval shall be evidenced by his execution thereof, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the purposes and intent of this Ordinance and the Bond Documents. The City Clerk or any Deputy City Clerk of the Issuer is hereby authorized and directed to attest the execution of the 2011 Bonds, the Bond Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out the intent of this Ordinance under the Issuer’s official seal.

**Section 5. Pledge of the Bond Improvements and Revenues.** The Issuer hereby pledges the Bond Improvements and the net revenues derived from the Bond Improvements to the payment of the 2011 Bonds in accordance with K.S.A. 12-1744. The lien created by such pledge shall be discharged when all of the 2011 Bonds shall be deemed to have been paid within the meaning of the Indenture.

**Section 6. Further Authority.** The officers, agents and employees of the Issuer are hereby authorized and directed to take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out the provisions of this Ordinance and to carry out and perform the duties of the Issuer with respect to the 2011 Bonds and the Bond Documents as necessary to give effect to the transactions contemplated in this Ordinance and in the Bond Documents.

**Section 7. Effective Date.** This Ordinance shall take effect from and after its final passage by the Governing Body of the Issuer, signature by the Mayor and publication once in the official newspaper of the Issuer.

**PASSED** by the Governing Body of the City of Wichita, Kansas, and approved by the Mayor on May 24, 2011.

CITY OF WICHITA, KANSAS

(Seal)

By \_\_\_\_\_  
Carl Brewer, Mayor

Attest:

By \_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to form:

By \_\_\_\_\_  
Gary E. Rebenstorf, City Attorney

**City of Wichita  
City Council Meeting  
May 17, 2011**

**TO:** Mayor and City Council

**SUBJECT:** Federal Edward Byrne Memorial Justice Assistance Grant  
E-Citation Program.

**INITIATED BY:** Wichita Police Department

**AGENDA:** New Business

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**Recommendation:** Approve the grant application.

**Background:** On May 2<sup>th</sup>, 2011, the Wichita Police Department completed an application for grant funding directly through the Edward Byrne Memorial Justice Assistance Grant (JAG). This grant allocates funds to the State of Kansas that jurisdictions within the state can compete for. Support innovative projects and/or proven programs related to planning, evaluation, and technology improvements.

**E-Citation Project:** The Wichita Police Department is working toward the implementation of automated citations. A City-wide Environmental Scan conducted by Wichita State University identified E-Citations as a cost-saving, innovative technology. The E-Citation Program would enhance the Department's comprehensive traffic safety program designed to reduce traffic fatalities through targeted enforcement at high accident locations and selected sites. E-Citations reduce the time that officers spend on car stops and increases the safety of the officer and the motorist. Electronic citations also improve efficiency in Municipal Court by eliminating handwriting misinterpretations and data entry errors. The Department anticipates the program will compensate for budgetary challenges within the Police Department and Municipal Court.

**Analysis:** Under the City of Wichita's Safe and Secure Initiative, the funding received from the Edward Byrne Memorial Justice Assistance Grant will provide for implementation of an E-Citation program. The acquisition of the equipment and services immediately follows the awarding of the grant.

**Financial Considerations:** The Wichita Police Department is applying for \$456,755.00 in 2012 Edward Byrne Memorial Justice Assistance Grant funding. There is no local match requirement.

e-Citation automated ticket program	\$456,755.00
<b>Total</b>	<b>\$456,755.00</b>

**Goal Impact:** Under the City of Wichita's Safe and Secure Initiative, the grant funding will help to ensure the police department continues its emphasis on our community policing philosophy through the use of technology to improve services and reduce costs.

**Legal Considerations:** None.

**Recommendations/Actions:** It is recommended that the City Council approve the grant application.

**Attachments:** Program Narrative to be submitted with grant application.

## **PROJECT NARRATIVE**

Several key goals for the City of Wichita have been identified. One of the goals and associated indicators is:

### **Safe and Secure Community**

- Maintain and/or improve response times and the crime rate.
- Improve environmental health and community safety.
- Maintain and improve citizen perception of public safety.

The Wichita Police Department strives to provide professional public safety services in partnership with citizens to identify, prevent and solve the problems of crime, fear of crime, social disorders and neighborhood decay, thereby improving the quality of life in our community.

One of the primary areas that affects community safety is traffic enforcement. We have evidenced over time that there is an inverse relationship between citations issued and traffic fatalities. We desire to reduce the number of traffic fatalities in Wichita. We hope to achieve this through education and enforcement along with the purchase of traffic enforcement equipment.

The Wichita Police Department has developed a practical plan to ensure that consistent police services will be provided to the City of Wichita. A key element of this plan is the effective use of limited resources through innovation and the use of technology.

In the past 12 months, the Wichita Police Department has accomplished much with the assistance of grant funding in furtherance of our departmental goals of creating a safe and secure community.

In the past 12 months, digital cameras were purchased for all patrol vehicles in the field. The cameras are used to document crime scenes and memorialize evidence from a myriad of police related cases. The photos are then uploaded into the individual case files for quick access by detectives and/or prosecutors. In the past it took many days to weeks for film to be developed.

Another area where grant funds were used to promote safe and secure communities in Wichita was for Stop Sticks. Stop Sticks have been useful in ending traffic pursuits, making the general public and our officers safer.

Grant funds were also used to purchase reflective traffic safety vests for all officers of the department. The vests are used to warn traffic of an officer's presence in the daytime and nighttime, improving officer safety.

In many grant funded projects, the City of Wichita Police Department has absorbed the grant project into the operating budget and it is proposed that the E-Citation Project be handled in the same manner.

### **Problem Statement and Needs Assessment**

The Wichita Police Department has a project designed to proactively address the public safety need for traffic safety in the City of Wichita. The Department's goal is to maintain Wichita's status as one of the safest cities in the United States by maintaining and/or improving traffic safety.

Under the City of Wichita's Safe and Secure Initiative, the funding received from the Edward Byrne Memorial Justice Assistance Grant will provide for implementation of an E-Citation program. The acquisition of the equipment and services immediately follows the awarding of the grant.

E-Citation Program: The E-Citation Program is designed to enhance the Department's aggressive traffic safety program; designed to reduce traffic fatalities through targeted enforcement at high accident locations and selected sites. The E-Citation Program reduces the amount of time officers spend on car stops thereby increasing officer safety. The E-Citation Program will increase productivity, efficiency, maximizing an officer's proactive patrol time. The electronic citations also improves accuracy by eliminating handwriting misinterpretations and data entry errors. The Department anticipates the program will compensate for budgetary challenges within the Police Department and Municipal Court.

The Department has conducted a benefits analysis that shows that the project will be self-sustaining.

**Proposed Grant Project Goal(s) and Objective(s)**

Goal: The goal of this project is to develop an e-citation program for the City of Wichita where citations and other forms are written, issued and transmitted to the records management system electronically thereby improving customer service, officer safety and City accountability.

	Objective	Activities - Tasks	Person Responsible	Time Frame
1	Reduce the time for officers to make traffic stops and issue citations, improving officer safety.	Using the E-Citation equipment.	Field Bureau Commanders	July 2012
2	Improve accuracy and legibility of citations to eliminate dismissals by the court system	Using the E-Citation equipment.	Patrol Officers	July 2012
3	Improve the efficiency of traffic enforcement	Using the E-Citation equipment	Patrol Officers	July 2012
4	To electronically transfer ticket data to the police department and municipal court records management systems	Develop a module to electronically transfer citation information into the records management systems	City IT/IS	July 2012
5	To facilitate the transfer of citation data to the State repository	Develop a module to electronically transfer citation data to the State repository	City IT/IS	July 2012

## **Proposed Grant Project Performance Measures and Determining Results**

1. Track the number of moving citations issued Citywide.
2. Reduced time for Officers to make traffic stop and issue citations by streamlining preparation of citations.
3. Reduced time in entering traffic citation data into the Records Managements System and the Court Records Management System by eliminating the redundancy of entering the same data multiple times.
4. Improved overall flow of traffic citation data by eliminating need for physical delivery of paper citations from the officer to the Records Bureau, to the Traffic Section, to Municipal Court.
5. Improved public relations, public perception and attitude because traffic stops take less time and less confusion about traffic citations, violations, and court hearings due to improved legibility and fewer errors.

## **Proposed Grant Project Staffing Patterns**

The implementation of an E-Citation program will not impact current staffing patterns.

## **Proposed Grant Project Collaboration**

The Wichita Police Department strives to work with agencies at both the local and state level to address the issues of traffic safety. The project proposed will benefit other agencies in addition to the Wichita Police Department. Electronic citations will improve efficiency in Municipal Court by eliminating handwriting misinterpretations and data entry errors. It will also allow for the transfer of citation data directly into the Kansas Criminal Justice Information System, (KCJIS), proposed citation repository. As part of the preliminary research into the project, the police department has conferred and partnered with the City of Wichita Municipal Court, the City of Wichita Prosecutor's Office, the Department of Information Technology and Information Services. Additionally, the Department has conferred with the KCJIS working group on the issue of electronic citations and what information will be needed for a State citation repository. Additionally, members of the Department were involved in the movement of updating State statutes that will allow for electronic signatures required by electronic citations.



**Submission of Criminal History Record Information:**

The Wichita Police Department is meeting the statutory requirements (K.S.A. 22-4701 et. Seq) for submission of criminal history records to the Kansas Bureau of Investigation.

**Civil Rights Contact Information**

Susan Leiker, Human Resources  
City of Wichita  
455 N. Main, 13<sup>th</sup> floor  
Wichita, Ks. 67202  
316-269-4723

**DUNS Number:**

DUNS Number: 043063460

**Current Audit Report**

The audit was completed by:  
Allen, Gibbs and Houlik, L.C.  
301 N. main, Suite 1700  
Wichita, KS 67202-4868

The last audit covers fiscal year ending December 31, 2009.

The audit was completed with an opinion issued on May 14, 2010.

Audit filed with:

1. The State of Kansas,
2. U.S. Department of Housing and Urban Development
3. Nationally Recognized Securities Information Repositories

**City of Wichita  
City Council Meeting  
May 17, 2011**

**TO:** Mayor and City Council

**SUBJECT:** Donation of Sculpture from Hypatia Club

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** New Business

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**Recommendation:** Approve the donation of artwork from Hypatia Club.

**Background:** The Hypatia Club contracted with Babs Mellor to create a six-foot bronze sculpture of its founder, Mary Elizabeth Lease. The Hypatia Club is the oldest women's club in the state and celebrated its 125<sup>th</sup> anniversary in January 2011.

In 1886, Mary Elizabeth Lease along with nine other women set a new direction for Wichita. The club founded the first welfare agency and enacted City sanitation by instigating the first trash pickup in 1901. The group also promoted educational progress and counted among its members the first women elected to the Wichita School Board.

**Analysis:** The Hypatia Club is donating the six-foot sculpture of its founder to the City of Wichita and has identified an appropriate location for the sculpture on the west side of the current public library building. The artwork would become part of the City's public art collection and would be maintained as part of the public art maintenance program.

**Financial Considerations:** None. The Hypatia Club is donating the sculpture to the City of Wichita to become part of the public art collection and is paying for the necessary footings for the installation of the sculpture.

**Goal Impact:** This project addresses the Quality of Life goal by producing an aesthetically pleasing environment.

**Legal Considerations:** The Law Department has reviewed the proposed donation and there are no legal impediments to accepting the donation.

**Recommendation/Action:** It is recommended that the City Council approve the donation of artwork from the Hypatia Club.

**Attachment:** Image one (1)  
Image two (2)









City of Wichita  
City Council Meeting  
May 17, 2011

**TO:** Mayor and City Council

**SUBJECT:** Animal Control and Exotic Animal Ordinance Revisions

**INITIATED BY:** Wichita Police Department

**AGENDA:** New Business

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**Recommendation:** Recommend that Animal Control and Exotic Animal Ordinances be amended as delineated.

**Background:** The current Animal Control and Exotic Animal Ordinances were adopted by the City Council on July 1, 2009. At the time of the Ordinance being adopted, Animal Control was a function of the Department of Environmental Health. The current Ordinances give authority for enforcement to the Director of Environmental Health and the Health Officer, positions which no longer exist in the City structure. On January 1, 2011, Animal Control became a function of and under the authority of the Police Department.

**Analysis:** The current Animal Control and Exotic Animal Ordinances do not provide authority to the Chief of Police or the Police Department to enforce. With the transfer of Animal Control under the authority of the Chief of Police, it is necessary to amend the Ordinances to reflect this change and give the Police Department proper authority to enforce the animal code in the City of Wichita. No changes have been made to the existing laws or requirements within the Ordinance. Only necessary changes to give enforcement authority to the Police Department and its members have been made along with deletions of reference to the Department of Environmental Health, which no longer exists.

**Financial Considerations:** None

**Goal Impact:** Provide Safe and Secure neighborhoods and enhance Quality of Life by amending existing Ordinances to be enforceable by the Police Department.

**Legal Considerations:** The Ordinances have been drafted by the Law Department and are approved as to form.

**Recommendations/Actions:** It is recommended that the City Council approve the proposed amendments and place the ordinances on first reading.

**Attachments:** Clean and delineated copies of ordinances.

First Published in The Wichita Eagle on \_\_\_\_\_

DELINEATED

DATE

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SECTIONS 6.04.010; 6.04.020; 6.04.025; 6.04.035; 6.04.036; 6.04.040; 6.04.045; 6.04.046; 6.04.047; 6.04.048; 6.04.050; 6.04.052; 6.04.070; 6.04.080; 6.04.090; 6.04.100; 6.04.110; 6.04.140; 6.04.155; 6.04.157; 6.04.158; 6.04.159; 6.04.160; 6.04.170; 6.04.172; 6.04.173; 6.04.175; 6.04.176; 6.04.210; 6.04.215 AND 6.04.218 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO ANIMAL CONTROL AND REPEALING THE ORIGINALS OF SAID SECTIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 6.04.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Sec. 6.04.010 Definitions.

As used in this chapter:

~~(a)~~ *Abandoned cat* means a cat which has returned to the feral state or which does not have a collar.

~~(b)~~ *Adequate care* means normal care and prudent attention to the needs and welfare of an animal, including that care normally needed to maintain good health of the animal, including clean and dry bedding and resting surfaces, grooming, removal of manure, and:

1. *Adequate food* means wholesome foodstuffs suitable for the animal provided at suitable intervals in a sanitary manner in quantities sufficient to maintain good health of the animal considering its age and condition; and

2. *Adequate health care* means the provision to an animal of all immunizations and preventive care required to maintain good health; space adequate to allow the animal to rest and exercise sufficient to maintain good health; and the provision to each sick, diseased or injured animal of necessary veterinary care or humane death; and

3. *Adequate shelter* means a structurally sound, properly ventilated, sanitary and weatherproof shelter suitable for the animal, considering the condition and age of the animal which provides access to shade from direct sunlight and regress from exposure to inclement weather conditions; and

4. *Adequate water* means a continual access to or access at suitable intervals to a supply of clean, fresh, potable water provided in a sanitary manner suitable for the condition of the animal.

(e) *Adult animal* means an animal that has reached sexual maturity. For the purposes of this title, unless otherwise specified, an animal will be considered to be an adult at five (5) months of age.

(d) *Animals* means all vertebrate and invertebrate animals such as, but not limited to, dogs, cats, bovine cattle, horses and other equines, hogs, goats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons, and other fowl or wild animals, reptiles, fish, or birds that have been tamed, domesticated or captivated.

Such term does not include exotic or dangerous wild animals, as defined by Chapter 6.08.

*Animal Control Officer* means any person employed by, contracted with or appointed by the City of Wichita, or any designee of the Chief of Police of the City of Wichita, for the purpose of aiding in the enforcement of this code.

(e) *Animal fighting paraphernalia* means equipment, animals, or commodities designed or capable of use for the purpose of training animals to attack other animals, as in dogfighting or cockfighting, including but not limited to: animal treadmills, drugs for healing animals such as anti-inflammatories, antibiotics or steroids, spurs, equipment used to threaten animals for the purpose of training for aggressive behavior, and/or equipment used to strengthen animal bodies. In determining whether an object is animal fighting paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or person in control of the object concerning its use.
2. Prior convictions, if any, of an owner or person in control of the object under any state law or city ordinance relating to animal fighting, animal cruelty or gambling.
3. The proximity of the object, in time and space, to a direct violation of an animal fighting, animal cruelty or gambling statute or ordinance.
4. The proximity of the object, in time and space, to other objects also susceptible for use as animal fighting paraphernalia.
5. The existence of bloodstains or blood spatters on the object.
6. The manner in which the object is displayed for sale or is described in written material on the subject of animal fighting.
7. The existence and scope of legitimate uses for the object in the community.
8. Expert testimony concerning the object's use.
9. The proximity of the object, in time and space, to dogs showing evidence of wounds or scarring.

f. *Animal shelter* means the facility or facilities authorized to care for animals impounded or held under the authority of the ordinances of the City of Wichita or the State of Kansas.

g. *Attack* means violent or aggressive physical contact with a person or domestic animal or violent or aggressive behavior that confines the movement of a person, including, but not limited to, charging, cornering, chasing, or circling a person.

h. *Bite* means any actual or suspected abrasion, scratch, puncture, tear, bruise or piercing of the skin, caused by any animal, which is actually or suspected of being contaminated or inoculated with the saliva from the animal, directly or indirectly, regardless of the health of the animal causing such bite.

i. *Cat* means any of the small carnivorous mammal varieties of *Felis Catus* which are domesticated. Such term shall not include hybrid breeds of cats which have been bred to a wild animal.

j. *Cattery* means any premises where there is being maintained or harbored a total of five or more cats or more than two unsprayed female cats, except veterinary hospitals. This term does not include foster homes operated under the auspices of rescue organizations licensed by the Kansas Department of Animal Health.

k. *City Treasurer* means the duly appointed treasurer of the city or his/her authorized representative.

l. *Commercial animal establishment* means any pet shop, animal day care, grooming shop, auction, riding school, stable, kennel, guard dog service, dog trainer or other business which keeps or maintains animals in stock for retail or wholesale trade or sale.

m. *Dangerous dog* means:

1. Any dog which has exhibited a vicious propensity toward persons or domestic animals and is capable of inflicting serious physical harm or death or damage to property; or
2. Any dog which, without provocation, attacks or bites, or has attacked or bitten a human being or domestic animal. This shall not apply if the victim was committing a willful criminal trespass on the property where the dog was harbored at the time of the attack or bite; or
3. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or
4. Any dog which chases or menaces any person in an aggressive manner, except that a dog shall not be deemed dangerous if the complainant was committing a willful criminal trespass at the time.
5. Any dog that poses a threat to public safety or constitutes a danger to human life or property based upon criteria described in Section 6.04.045, as determined by the Health Officer.

n. *Defecate* means to excrete waste matter from the bowels.

o. *Dog* means any animal which is of the species *Canis Familiaris*. Such term shall not include hybrid breeds of dogs which have been bred to a wild animal.

p. *Dog breeder* means a person who raises or produces dogs or puppies for sale or profit. It is presumed that a person who advertises the sale of dogs or puppies or a person who owns two or more unaltered female dogs is a dog breeder. Such term shall include persons who are licensed by the State of Kansas as an Animal Dealer, Retailer Breeder, Animal Breeder, Hobby Breeder or Hobby Kennel. Such term shall include a person who owns one or two unaltered pit bulls.

q. *Animal day care* means a commercial establishment that takes temporary possession of an animal, at the request of an owner, to provide safety, comfort and/or socialization of the animal.

r. *Domestic animals* means all animals that have been domesticated, such as, but not limited to, dogs, cats, cattle, horses, swine, goats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons or other fowl.



s. *Domestic animal structure* means all pens, houses or structures where domestic animals are confined, such as, but not limited to: hutches, cotes, lofts, kennels, dog runs, warrens, feed lots, barns or other buildings and enclosures. The term does not apply to perimeter fencing surrounding the property.

t. *Exotic animal* means those animals not normally occurring in North America and animals of any species the majority of whose populations are wild.

u. *Ferret* means a domesticated, small, elongated carnivorous mammal which belongs to the Mustelidae Family (*Mustela putorius furo*).

v. *Foster care, group home or rescue* means a person or organization, whether for profit or non-profit, which provides temporary care for animals from a licensed animal shelter at a private residence. Temporary care is a period of time not to exceed six (6) months. Such term shall include foster, group and rescue homes operated under the auspices of rescue organizations licensed by the Kansas Animal Health Department.

w. *Fowl* means any domesticated or wild bird, including but not limited to: chickens, hens, ducks, geese, pheasants, turkeys, doves, pigeons, parrots, parakeet and exotic birds.

x. *Garbage* means the putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food for human beings.

y. *Groomer* means a person or establishment which provides animal grooming services.

z. *Health Officer* means the Director of the City of Wichita Department of Environmental Services or authorized representative.

~~(aa)~~ *Inhumane treatment* means any treatment to any animal which deprives the animal of necessary sustenance, including food, water and protection from the weather; any treatment such as overloading, overworking, tormenting; beating, mutilating, teasing or other abnormal treatment; or causing or allowing the animal to fight with any other animal.

~~(bb)~~ *Kennel* means any premises where there is being maintained a total of five or more adult dogs owned by the property resident.

~~(cc)~~ *Livestock* means any cow, ox or other bovine, goat, sheep, horse, ratites, donkey, swine, mule or other animal of similar or larger size.

~~(dd)~~ *Microchip* means a passive transponder which can be implanted in an animal and which is a component of a radio frequency identification (RFID) system.

~~(ee)~~ *Neighbor* means any person residing within two hundred feet (200') from the outermost property line of the property where a domestic animal is owned, kept or harbored.

~~(ff)~~ *Owner, keeper or harbinger* means any person who possesses, harbors, keeps, feeds, shelters, maintains, offers refuge or asylum to any animal, or who professes to keeping, owning or harboring of such animal. In addition, any person who signs a receipt as owner, keeper or harbinger for the return of an animal from any shelter or animal holding facility, shall be presumed to be the owner, keeper or harbinger of the animal. A parent or legal guardian shall be deemed to be an owner, keeper or harbinger of animals owned, kept or harbored upon their premises by minor children who are less than eighteen (18) years of age. Such term shall also include any person who exercises control over or is in possession of any such animal.

~~(gg)~~ *Person* means any individual, firm, association, joint stock company, syndicate, partnership, corporation, other state franchised business entity such as a professional association, limited liability company, or limited liability partnership, or other organization of any kind.

~~(hh)~~ *Picket* means attaching a leash, rope, chain, lead, tether or other similar apparatus or device to the body of an animal and another inanimate or immovable object for the purpose of confining the animal or limiting the movement of the animal.

~~(ii)~~ *Pit Bull dog* is defined to mean any and all of the following dogs:

1. The Staffordshire Bull Terrier breed of dogs;
2. The American Staffordshire Terrier breed of dogs;
3. The American Pit Bull Terrier breed of dogs;
4. Dogs which have the appearance and physical characteristics of being predominately of the breeds of dogs known as Staffordshire Bull Terrier, American Pit Bull Terrier or American Staffordshire Terrier.

A dog which possesses five out of the following eight characteristics shall be considered to be a pit bull:

1. Head is medium length, with a broad skull and very pronounced cheek muscles, a wide, deep muzzle, a well-defined, moderately deep stop, and strong under jaw. Viewed from the front the head is shaped like a broad, blunt wedge.
2. Eyes are round to almond shaped, are low in the skull and set far apart.
3. Ears are set high. Un-cropped ears are short and usually held rose or half prick, though some hold them at full prick.
4. Neck is heavy and muscular, attached to strong, muscular shoulders.
5. Body is muscular, with a deep, broad chest, a wide front, deep brisket, well-sprung ribs, and slightly tucked loins.
6. Tail is medium length and set low, thick at the base, tapering to a point.
7. Hindquarters are well muscled, with hocks, set low on the legs.
8. Coat is a single coat, smooth, short and close to the skin. Pit bull puppies have the same characteristics, though in juvenile or adolescent form. Muscles, along with breadth and depth of head and chest may be less developed. Specifically excepted from this definition is any dog with proof, by a written certification from a veterinarian licensed by the State of Kansas, that the dog does not contain in its lineage any American Pit Bull Terrier, American Staffordshire Terrier or Staffordshire Bull Terrier.

~~(jj)~~ *Premises* means a lot, plot or parcel of land including structures located thereon.

~~(kk)~~ *Public nuisance* means any repeated acts of an animal that irritates, perturbs or damages rights and privileges common to the public or enjoyment of private property or indirectly injures or threatens the safety of a member of the general public. Such actions include, but are not limited to:

1. Damage to public or private property including, but not limited to: breaking, bruising, tearing up, digging up, crushing or injuring any lawn, garden, flower bed, plant, shrub or tree in any manner;
2. Rips any trash bag or tips any solid waste collection container which spills or scatters trash, debris, refuse or waste.
3. Repeatedly defecates upon any public place or upon premises not owned or controlled by the animal's owner, keeper or harborer, provided that this definition shall not apply where such waste is immediately removed and properly disposed of by the owner of such animal.
4. Allowing or permitting an animal to be maintained in an unsanitary condition so as to be offensive to sight or smell.
5. Causes a condition which endangers public health or safety.

~~(H)~~ *Ratites* means all creatures of the ratite family that are not indigenous to this state, including but not limited to, ostriches, emus and rheas.

~~(mm)~~ *Refuse* means all putrescible and non-putrescible waste materials (except animal body discharges) such as trash, garbage, dead animals, paper, cardboard, tin cans, grass, wood, metals,

salvage or inert materials produced or accumulated in connection with the maintenance of domestic animals.

~~(nn)~~ *Retail* means any transaction where the animal is sold to the final consumer.

~~(oo)~~ *Running at large* means any animal, with the exception of a cat, that is not confined within a fenced enclosure or shelter capable of preventing the animal from exiting at will, unless under the control of a person, either by lead, cord, rope or chain; provided that an animal may be considered confined if it is on a leash, rope or chain which is sufficient to keep the animal on the premises where picketed in accordance with section 6.04.040(e)(14). For the purposes of this chapter, an animal shall not be considered running at large when on the owner's property and confined by an operating electronic fencing system when the premises are clearly and prominently marked to show the existence of the electronic fencing system and the animal is equipped with the necessary and operating components of the system required to confine the animal to the owner's property. Further, a dog shall not be considered to be running at large when it is unleashed inside a dog park owned or operated by the City of Wichita.

~~(pp)~~ *Sale or offer for sale* includes transfers by sale or exchange.

~~(qq)~~ *Sanitary* means clean, free from waste and free from infectious influences.

~~(rr)~~ *Secure enclosure* means a locked enclosure or structure measuring at least 6 feet in width, 12 feet in length, and 6 feet in height, a secure top attached to the sides which provides proper protection from the elements for the dog, is suitable to prevent the entry of young children, and is designed to prevent the animal from escaping while on the owner's property, which has been inspected and approved by the Health Officer. Such enclosure shall have a concrete or wire floor to prevent the dog from digging out or escaping from the enclosure.

~~(ss)~~ *Service animal* means any animal recognized as a qualified service animal pursuant to the Americans with Disability Act of 1990. A qualified service animal is defined as, but not limited: to a dog which has been specially selected, trained and tested to perform a variety of tasks for persons with disabilities. These tasks include, but are not limited to: pulling wheelchairs, lending balance support, picking up dropped objects or providing assistance in, or to avoid, a medical crisis or to otherwise mitigate the effects of a disability. The presence of a dog for comfort, protection or personal defense does not qualify a dog as being trained to mitigate an individual's disability and, therefore, does not qualify the dog as a service dog.

~~(tt)~~ *Stockyard* means a public terminal stockyard posted by the packers and stockyards divisions of the United States Department of Agriculture.

~~(uu)~~ *Unaltered* means an animal which has not been surgically sterilized.

~~(vv)~~ *Veterinarian* means a doctor of veterinary medicine licensed by the State of Kansas.

~~(ww)~~ *Veterinarian hospitals* mean a domestic animal hospital operated by a doctor of veterinary medicine, licensed by the State.

~~(xx)~~ *Vicious propensity* means a known tendency or disposition to approach any individual or domestic animal in an attitude of attack when there is no provocation.

~~(yy)~~ *Waste* or *wastes* means manure or the bodily discharge of all domestic animals, spilled feed or unconsumed feed and liquid cleaning wastes, including suspended solids resulting from cleaning operations.

~~(zz)~~ *Wild animal* means any species that has established breeding populations currently within North America, which is self sufficient in the natural environment, and the majority of whose populations are not domesticated.

SECTION 2. Section 6.04.020 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

Sec. 6.04.020. ~~Responsibilities of the Health Officer~~ Enforcement of this title.

- (a) ~~The Health Officer~~ Wichita Police Department and members of the City of Wichita's Animal Control and all designees of Chief of Police of the City of Wichita shall be responsible for the enforcement of this title and is hereby authorized to make investigations and to serve notices and orders as necessary for enforcement of the provisions of this title, to pick up animals on public or private property, and to arrange and pay for confinement of such animals at an animal shelter in accordance with K.S.A. 47-1701, et seq., and amendments thereto, and to operate an animal shelter to aid the department's animal control functions, including charging the owner of any animal confined for the care thereof, and to seek reimbursement from the owner of any animal confined, whether the confinement is at the animal shelter operated by the department or by a third party. Such authority shall include, subject to budgetary control, authorization for formalization of an agreement with such animal shelter.
- (b) ~~The Health Officer~~ Animal Control Officers and all members of the Wichita Police Department shall have the authority to sign complaints and serve notices to appear before the Municipal Court upon any person when the ~~Health Officer~~ Animal Control Officer or Police Officer has probable cause to believe such person has or is violating a section of this Code. Such officer shall have the authority to issue, suspend or revoke licenses and permits as provided for by this title.
- (c) In addition to fees provided for in this title, the ~~Director of the Wichita Department of Environmental Services~~ Chief of Police of the City of Wichita or designee is authorized to establish a schedule of user or service fees and collect such fees for services performed, including but not limited to:
1. Animal shelter boarding and animal redemption;
  2. Shelter services provided to other jurisdictions;
  3. Animal care and control items sold at the Wichita Animal Shelter;
  4. Adoption fees for the adoption of animals from the Wichita Animal Shelter.
  5. Research and copying of documents not subject to the Kansas Open Records Act requests;
  6. Inspection services provided to other jurisdictions.
  7. Enter into interlocal agreements with other jurisdictions to provide Animal Control services.
- (d) ~~The Director of Environmental Services~~ Chief of Police of the City of Wichita or designee is authorized to adjust fees during instances of moratoriums, special events or special adoption programs."

SECTION 3. Section 6.04.025 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

Sec. 6.04.025. Trapping of abandoned cats ~~by Health Officer~~.

- (a) Abandoned cats located within the corporate limits of the city are declared a nuisance and menace to the public health which is to be abated by the ~~Health Officer~~ Wichita Police Department.
- (b) A cat that has reverted to a feral state or has no collar is presumed to be an abandoned cat. Such cat may be confined by a person on whose property such cat strays for pick-up by the ~~Health Officer~~ City of Wichita's Animal Control, or be trapped by ~~the health officer~~ an Animal Control Officer.
- (c) ~~The Health Officer~~ Animal Control Officers may utilize humane-type cage traps to apprehend any abandoned cat with such humane trap being placed by the ~~health officer~~ Animal Control Officer on public property or private property with the consent of the owner.
- (d) ~~The Health Officer shall~~ Animal Control Officer shall transport cats that have been trapped, picked up, confined or relinquished to the animal shelter with such cat being impounded as provided by K.S.A. 47-1701 et seq., as amended, unless sooner redeemed by an owner upon payment of a service charge and boarding fee to the city. Identification information, if available on a trapped cat, shall be utilized by the ~~Health Officer~~ Animal Control Officer or animal shelter to inform such owner that his cat has been impounded.

SECTION 4. Section 6.04.035 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

Sec. 6.04.035. Cruelty to animals.

- (a) It is unlawful for any person to commit the crime of cruelty to animals. Cruelty to animals is:
1. Intentionally causing any physical injury, other than the following acts, described in K.S.A. 21-4310(a)(10) and amendments thereto: by intentionally and maliciously killing, injuring, maiming, torturing, burning or mutilating any animal;
  2. Recklessly causing physical injury to any animal;
  3. Intentionally abandoning or leaving any animal in any place without making provisions for its proper care;
  4. Having physical custody of any animal and intentionally failing to provide adequate care, such as food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal, or to carry any animal in or upon any vehicle in a cruel or inhumane manner. Any animal kept outside shall be provided with a structurally sound, weatherproof enclosure, large enough to accommodate the animal;
  5. For any person, by any means, to make accessible to any animal, with the intent to cause harm, any substance which has in any manner been treated or prepared with a harmful or poisonous substance, except that this section shall not prohibit the use of poisonous substances for the control of vermin of significance to the public health.
  6. Every operator of a motor vehicle or other self-propelled vehicle upon the streets and ways of the City, except emergency vehicles, shall immediately, upon injuring, striking, maiming or running down any animal, notify the police department (911) of the location, and the police department will notify such agency as may be providing injury services;
  7. For any person to have, keep or harbor any animal which is infected with any dangerous or incurable and/or painfully crippling condition except as hereinafter provided. A Municipal Court Judge may order a person convicted under this section to turn the animal involved over to the

~~Environmental Services Department~~ Animal Shelter. All such animals taken by the ~~Environmental Services Department~~ Animal Control may be destroyed humanely as soon thereafter as is conveniently possible. This section shall not be construed to include veterinary hospitals or animals under active veterinary care;

8. Intentionally using a wire, pole, stick, rope or any other object to cause any equine, bovine or swine to lose its balance or fall, for the purpose of sport or entertainment.

9. It is unlawful for any person to leave an animal in a standing or parked vehicle under conditions constituting an imminent threat to the safety of the animal. The ~~Health Officer~~ Animal Control Officer may remove and impound an animal left under what reasonably appears to be such conditions. Removal and impoundment of an animal shall not limit the ~~Health Officer's~~ Animal Control Officer's ability to pursue charges or animal cruelty in Municipal Court.

10. It is unlawful for any person to subject any animal to inhumane treatment, as defined by Section 6.04.010 of this Code.

(b) The provisions of this section shall not apply to:

1. Normal or accepted veterinary practices;

2. Bona fide experiments carried on by commonly recognized research facilities;

3. Rodeo practices as described in the Professional Rodeo Cowboys Association Rules Governing the Care and Treatment of Livestock in PRCA Sanctioned Rodeos;

4. The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound.

5. With respect to livestock, normal or accepted practices of animal husbandry, including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;

6. The killing or injury of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, livestock or property;

7. An ~~animal control officer~~ Animal Control Officer trained by a ~~licensed veterinarian~~ in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;

8. Laying an equine down for medical or identification purposes;

9. Normal or accepted practices of pest control, as defined in K.S.A. 2-2438a and amendments thereto; or

10. Accepted practices of animal husbandry pursuant to regulations promulgated by the United States Department of Agriculture for domestic pet animals under the Animal Welfare Act, and amendments thereto.

(c) As used in this section,

1. *equine* means a horse, pony, mule, jenny, donkey, or hinny.

2. *bovine* means a cow, calf, bull or steer.

3. *swine* means a pig, shoat, piglet, boar, barrow, gilt or sow.

(d) Cruelty to animals as described in this section is a misdemeanor punishable by a fine or not more than \$2,500.00 and/or imprisonment of not more than 12 months, or any combination of such fine and imprisonment.

SECTION 5. Section 6.04.036 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

Sec. 6.04.036. Cruelty complaint--Municipal court hearing.

(a) ~~The Health Officer~~ An Animal Control Officer or the representative of a duly incorporated humane society may, if a report has been made which shows evidence of cruelty or inhumane treatment of an animal against an individual before or after the individual has been convicted of such violation, sign an affidavit petitioning the Municipal Court Judge to immediately take custody and control of such animal if it appears to the ~~Health Officer~~ Animal Control Officer or the representative of the duly incorporated humane society that it would be in the best interest of such animal to have the Municipal Court seize such animal.

(b) The Municipal Court Judge, upon receiving such affidavit and petition, shall set the matter for hearing within five business days from the date that the petition and affidavit are filed. If it appears from the affidavit that there is an imminent threat to the life of the animal, then the Municipal Court may set the hearing as soon as practical. The Municipal Court shall direct notice of the violation be served on the owner or harbinger of such animal by serving such person with a summons to appear and a copy of the affidavit filed with the court. This summons and affidavit shall be served in the same manner as is required for serving a Notice to Appear under K.S.A. 12-4207.

(c) The Municipal Court Judge, after a hearing has been held, may order that an animal be seized and held in the animal shelter of the City of Wichita, or placed in the custody of a duly incorporated humane society if the following findings are made:

1. The person summoned to appear is the owner or harbinger of the animal in question;
2. That there is probable cause to believe that a violation of any provision of Section 6.04.035 has occurred or is occurring; and
3. Based upon that violation, it appears that it would be in the best interest of the animal, to remove that animal from the control and custody of the owner or harbinger.

(d) If the Municipal Court Judge orders that such animal shall be seized and brought into custody, then the ~~Health Officer~~ Animal Control Officer or a representative of a duly incorporated humane society shall take such animal into custody and shall inspect such animal, care for or treat such animal or place such animal under the care of a licensed veterinarian for treatment, boarding or other care. If the ~~Health Officer~~ Supervisor of Animal Control determines, based on information from his or her staff, an officer of a humane society, or a licensed veterinarian, that the animal is diseased or disabled beyond recovery for any useful purpose, then such animal may be destroyed humanely as soon thereafter as is conveniently possible, subject to the right of appeal stated below in subsection (i). The City of Wichita shall not be responsible for any costs that are incurred by an incorporated humane society as to the care of an animal placed in the custody of a humane society or as to treatment of an animal under the custody of a humane society received from a licensed veterinarian.

(e) If the owner or harbinger of such an animal is convicted of violating any provision of Section 6.04.035 of this code and if the Municipal Court Judge finds that such animal would in the future

be subjected to treatment or actions by the owner or harbinger which violates any provision of Section 6.04.035, such animal shall not be returned to or remain with such person. Such animal may be turned over to the ~~Health Officer~~ animal shelter, humane society or licensed veterinarian for sale or other disposition.

(f) Expenses incurred for the care, treatment or boarding of any animal taken into custody pursuant to subsection (d) pending prosecution of the owner or harbinger of such animal for cruelty to animals shall be assessed to the owner or harbinger as a cost of the case if the owner or harbinger is adjudicated guilty of such crime.

(g) If ~~the Health Officer~~ an Animal Control Officer has taken possession of the animal, the ~~Health Officer~~ Animal Control Officer may petition the Municipal Court to be allowed to place the animal for adoption or euthanize the animal after five (5) business days following notification to the owner or harbinger of such animal, unless the owner or harbinger files a renewable cash or performance bond with the Clerk of the Municipal Court where the animal is being held, in an amount equal to not less than the cost of care and treatment of the animal for thirty (30) days. If the animal remains in the custody of the ~~Health Officer~~ animal shelter for a period exceeding thirty days, after written notice to the owner or harbinger, the ~~Health Officer~~ Supervisor of Animal Control or designee may request the Municipal Court Judge to increase the amount of the bond to cover the costs of care for the animal.

(h) If the owner or harbinger of such animal is adjudicated not guilty or if the Municipal Court Judge, after an adjudication of guilt is made, finds that such animal should be returned, such person may redeem such animal within seventy-two hours. If such animal is not redeemed within seventy-two hours, then the entity operating the animal shelter caring for the animal shall have ownership of such animal and shall determine the disposition of such animal. Any proceeds derived from such sale or disposition shall be paid directly to the treasurer of the entity operating the animal shelter, and no part of such proceeds shall accrue to any individual.

(i) An order issued by the Municipal Court Judge under this section may be appealed to the district court pursuant to the provisions contained in K.S.A. 60-2101(d) and amendments thereto."

#### SECTION 6. Section 6.04.040 of the Code of the City of Wichita, Kansas is amended

to read as follows:

##### Sec. 6.04.040. Control and protection of animals in general.

(a) Any owner, keeper or harbinger of any animal, other than cats, found running at large within the corporate limits of the city shall be deemed guilty of a misdemeanor. Knowledge or intention on the part of the owner, keeper or harbinger shall not be elements of this offense. ~~The Health Officer~~ An Animal Control Officer may seize, impound and cause to be destroyed any such animal, including those animals not within the definitions of the Kansas Pet Animal Act, using the procedures set out at K.S.A. 47-1710. The ~~Health Officer~~ Supervisor of Animal Control may return the animal to its rightful owner, keeper or harbinger upon request and may require the payment of a service charge and a boarding fee for days spent in confinement at the shelter prior to return of the animal. If any animal impounded for any reason is determined by the ~~Health Officer~~ Supervisor of Animal Control to require confinement separate from other like animals in order to protect the health and well being of that animal, staff, the public, or other animals being housed at the animal holding facility due to any aggressive behavior and/or any disease or



medical conditions, the boarding fee for such animal shall be twice the normal boarding fee established by the animal shelter. Any person who is convicted of the charge of animal running at large shall be punished as set forth below:

1. Upon a first conviction, a fine of not less than \$50.00 nor more than \$1,000.00 shall be assessed.

2. Upon a second conviction a fine of not less than \$100.00 nor more than \$1,000.00 shall be assessed.

3. Upon a third or subsequent conviction, a fine of not less than \$200.00 nor more than \$1,000.00 shall be assessed and the owner must appear in Municipal Court.

(b) In addition to the penalties set forth in paragraph (a), the owner, keeper or harbinger of any unaltered dog that has been impounded for running at-large shall be required to:

1. Have an identification microchip implanted in the dog traceable to the current owner, and registered with the City of Wichita, and

2. Have the dog surgically sterilized by a licensed veterinarian within thirty days of redemption of said dog, at his or her own expense. It shall be a violation of this ordinance to fail to have the dog surgically sterilized, or provide proof from a licensed veterinarian that said dog has previously been surgically sterilized, or has been surgically sterilized and micro-chipped within thirty days after redemption of said dog as indicated in this ordinance, or

3. The owner, keeper or harbinger may maintain the aforementioned dog intact by paying an additional unaltered animal fee, the amount of which shall be established by the ~~Health Officer~~ Chief of Police or designee to redeem such dog from the Animal Shelter. Such dog may be maintained intact provided that the dog is not found to be running at large on any subsequent occurrence within the dog's lifetime.

4. For any dog required to be surgically sterilized, the ~~Health Officer~~ Supervisor of Animal Control shall collect payment for and issue a spay/neuter voucher at the time of the animal's redemption, and the owner, keeper or harbinger shall provide documentation of the sterilization upon completion. Such voucher shall remain valid for thirty (30) days. Any owner, keeper or harbinger failing to provide documentation of the sterilization procedure within thirty days of impoundment shall be deemed guilty of a misdemeanor. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or micro chipping of the dog. Upon the renewal of the license, the amount will be changed to reflect the altering and micro chipping of the dog.

(c) Upon the second occurrence of any intact dog impounded by the ~~Health Officer~~ Animal Control for running at large, the owner, keeper or harbinger of such dog shall be required to have the animal surgically sterilized by a licensed veterinarian within thirty days of redemption of said dog at his or her own expense. For any animal required to be surgically sterilized, the ~~Health Officer~~ Supervisor of Animal Control shall collect payment for and issue a spay/neuter voucher at the time of the animal's redemption, and the owner, keeper or harbinger shall provide documentation of the sterilization upon completion. Any owner, keeper or harbinger failing to provide documentation of the sterilization procedure within thirty days of impoundment shall be deemed guilty of a misdemeanor.

(d) Animals which are kept on the premises of any pet store shall not be allowed, by the storeowner or any employee, to run at large inside the store or on the external premises of the pet store during business hours, and no person shall allow any animal under their care or control to run at large on the premises of any store during business hours. This provision shall not apply to animals participating in supervised training classes within an enclosed area of the store.

(e) It is unlawful for any person to:

1. Kill any squirrel or songbird within the corporate limits of the city; provided, that it shall be permissible for ~~the Health Officer~~ Animal Control Officers to kill squirrels, skunks, birds, or other animals that have become so numerous as to cause destruction or nuisance to property or in the event of disease occurring among such squirrels, skunks, birds, or other animals that may be considered contagious to human beings;
2. Interfere with or molest an animal used by the police or fire department of the city or other governmental agency or department in the performance of its lawful functions and duties or interfere with the handler of such animal in such a way that the handler is deprived of or inhibited in his control of such animal;
3. Own, maintain, or have in his or her possession animal fighting paraphernalia;
4. Own, keep or harbor on one's premises any animal, by a person convicted of animal fighting, pursuant to K.S.A. 21-4315 or convicted of cruelty to animals as defined by Section 6.04.035 of the Code of the City of Wichita or K.S.A. 21-4310 and amendments thereto.
5. Own, keep or harbor any animal, which, by loud, frequent, excessive or habitual barking, howling, yelping or other noise or action, unreasonably interferes with the use or enjoyment of property of any person of reasonable sensibilities residing in or occupying the area. To effect legal relief, persons so affected directly may sign a complaint at the ~~Department of Environmental Services~~ Animal Shelter or contact the Wichita Police Department to file a report regarding such nuisance.
6. Allow any unspayed female dog in season to be in an area where there is access by an unconfined male dog;
7. Allow an unconfined male dog in an area where there is access to any unspayed female dog in season;
8. Own, keep or harbor a dog over five months of age within the corporate limits of the city without such dog having a current vaccination against rabies performed by a veterinarian, and the owner thereof securing an annual license for such dog issued by the City Treasurer. ~~The Director of Environmental Services~~ The Chief of Police or designee shall have the authority to establish appropriate licensing fees for such animals.
9. Own, keep or harbor a cat over five months of age within the corporate limits of the city without such cat having a current vaccination against rabies performed by a veterinarian licensed by the State of Kansas.
10. Sell or offer for sale, barter or give away any living baby chicks, rabbits, ducklings, or other fowl except pigeons, under two months of age or to sell, offer for sale, barter, give away or display animals or fowl as specified in this subsection which have been dyed, colored or otherwise treated so as to impart to them an artificial or unnatural color; provided, however, that this section shall not be construed to prohibit the sale of animals or fowl, as specified in this subsection, in proper brooder facilities by hatchers or persons engaged in the raising and selling of such animals and fowls for recognized animal husbandry or commercial purposes;
11. Own, keep, or harbor, sell or offer for sale, barter or give away any animal whose possession is prohibited by federal or state law; or any exotic animal as defined in by this title. This section shall not apply to: tropical or other fishes; birds, except those prohibited by federal or state law; animals such as gerbils, rats, mice, hamsters, guinea pigs, and ferrets; small mammals raised for harvesting of fur salable into an existing market, such as chinchillas, nutria and mink; nonpoisonous amphibians and reptiles, not including pythons, anacondas, boa

constrictors, monitor lizards, iguanas, alligators, caiman, crocodiles and turtles. This section shall not apply to exhibitions authorized by and conducted in accordance with Chapter 6.08.

12. Continuously picket a dog for more than one continuous hour, except that picketing of the same dog may resume after a hiatus of three continuous hours. A dog may not be picketed for a total time period exceeding three hours, in any twenty-four-hour period.

For the purpose of picketing a dog, a chain, leash, rope, or tether shall be at least 10 feet in length.

(i) A chain, leash, rope, collaring device, tether, or any assembly or attachments thereto used to picket a dog shall not weigh more than one-eighth (1/8) of the animal's body weight, or due to weight, inhibit the free movement of the animal within the area picketed.

(ii) Dogs shall be picketed in such a manner as to prevent injury, strangulation, or entanglement on fences, trees, or other man made or natural obstacles;

(iii) It is unlawful to attach chains or other tether restraint implements directly to a dog without the proper use of a collar, harness, or other device designed for that purpose and made from a material that prevents injury to the animal.

13. Permit or allow any animal to be a public nuisance.

14. Own, keep or harbor more animals than is permitted by the requirements of this title.

(f) ~~Health Officers~~ Animal Control Officers and other law enforcement officers may issue the owner or owners of animals creating a public nuisance, as defined in this title, a citation to appear in municipal court to answer the offense charged. To effect legal relief, persons affected directly may sign a complaint at the ~~Department of Environmental Services~~ Animal Shelter or contact the Wichita Police Department to file a report regarding such nuisance.

SECTION 7. Section 6.04.045 of Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.045. Dangerous dog--Determination--Notice and hearing--Confinement or destruction.

a) The ~~Health Officer~~ Supervisor of Animal Control may declare a dog to be dangerous based on:

1. The nature of any attack committed or wound inflicted by the animal;
  2. The past history and seriousness of any attacks or wounds inflicted by the animal;
  3. The potential propensity of the animal to inflict wounds or engage in aggressive or menacing behavior in the future;
  4. The conditions under which the animal is kept and maintained which could contribute to, encourage, or facilitate aggressive behavior, such as, but not limited to, allowing the animal to run at large, tethering in excess of legal limits as defined in this chapter, physical property conditions, presence of young children, the elderly, or infirm within or residing near the home, any past violations of this chapter, and/or failing to provide proper care, food, shelter, or water.
- If the ~~Health Officer~~ Supervisor of Animal Control determines that the animal is dangerous, he or she will determine an appropriate disposition based on the known facts and consistent with the provisions of this chapter. The ~~Health Officer~~ Supervisor of Animal Control may impound the dog and shall notify the owner of such determination by personal service, residential service at the person's usual place of abode by leaving a copy of the notice with some person of suitable age and discretion residing therein, or by certified mail addressed to the owner's last known address, or addressed to the location where the dog is maintained. Service by certified mail, shall

request return receipt, with instructions to the delivering postal employee to show to whom delivered, the date of delivery, and address where delivered. Service of process by certified mail shall be considered obtained upon the delivery of the certified mail envelope. If the certified mail envelope is returned with an endorsement showing refusal of delivery, the ~~Health Officer~~ Supervisor of Animal Control or designee shall send a copy of the notice to the defendant by ordinary, first class mail. This first class mailing shall be evidenced by a certificate of mailing. Service shall be considered obtained upon the mailing of this additional notice by first class mail. The owner of a dog declared dangerous may request an administrative review of the determination by filing a written request with the ~~Health Officer~~ Supervisor of Animal Control within ten days of receipt of such notification.

(b) The ~~Health Officer~~ Chief of Police or designee will conduct a hearing within ten days of receipt of the owner's request. At such hearing, testimony may be offered by the owner of the dog, the ~~Health Officer~~ Animal Control Officers or staff of Animal Control, victims of any bite or attack, neighbors or other affected persons, and veterinarians concerning the vicious propensity of the dog. In making a determination, the ~~Health Officer~~ Chief of Police or designee shall consider the factors listed in subsections (1) through (4) above. It shall be an affirmative defense that at the time of a bite, attack, or threatening behavior:

1. The dog was actively being used by a law enforcement official for legitimate law enforcement purposes; or
2. The threat, injury, or damage was sustained by a person:
  - (i) Who was committing, at the time, a criminal trespass or other tort upon the premises lawfully occupied by the owner of the dog; or
  - (ii) Who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused or assaulted the dog; or
  - (iii) Who was committing or attempting to commit a crime; or
3. The dog was responding to pain or injury.

If the ~~Health Officer~~ Chief of Police or designee determines that the dog is dangerous, he or she shall determine an appropriate disposition based on the facts determined at the hearing and the provisions of this chapter, and will notify the owner in writing of the outcome of the hearing within five business days. The owner may appeal the hearing outcome as provided for in Section 6.04.210. During the appeal process, the owner, keeper or harbinger of such animal shall be responsible for the cost of keeping such animal in the Animal Shelter. The owner, keeper or harbinger of such animal can file a renewable, non-refundable, cash or performance bond with the Animal Shelter where the animal is being held, within the 10 day appeal period, in an amount equal the cost of care and treatment of the animal for thirty (30) days. Said cash or performance bond shall be renewable for an additional thirty (30) days and each successive thirty (30) days the animal is held by Animal Services during the pendency of the appeal. Payment of said renewal shall be within 5 days of the running of the previous thirty (30) day period. If said cash or performance bond, or its renewal, is not tendered to the Animal Shelter within the time specified above, then the ~~Health Officer~~ Animal Control shall have immediate ownership of such animal and the Supervisor of Animal Control shall determine the disposition of such animal. Absent such appeal, the ~~Health Officer~~ Supervisor of Animal Control or designee may pick up and cause the animal to be destroyed, or in lieu of such destruction he or she may permit the confinement of the animal in a manner and location that he or she deems appropriate or as provided in Section 6.04.046

SECTION 8. Section 6.04.046 of the Code of the City of Wichita, Kansas is amended to

read as follows:

Sec. 6.04.046. Dangerous dog--Failure to confine--Destruction and defenses.

(a) It is unlawful for an owner, keeper or harbinger of a dangerous dog to permit the dog to be outside an approved or secure enclosure unless the dog is restrained by a substantial chain or leash and under physical restraint by a responsible person who is eighteen years of age or older and possesses sufficient strength for physical control of the animal for the purpose of transportation to and from a veterinarian for medical treatment. In such event, the dangerous dog shall be securely muzzled and restrained with a chain or leash not exceeding four (4) feet in length, and shall be under the direct control and supervision of the owner, keeper or harbinger of the dangerous dog. The muzzle shall be made and used in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

(b) Secure or approved enclosures required under this section must be approved by the ~~Health Officer~~ Supervisor of Animal Control or designee and be adequately lighted and kept in a clean and sanitary condition.

(c) The owner, keeper or harbinger shall allow the ~~Health Officer~~ access to the property where the dangerous animal is being harbored to facilitate inspections and insure compliance for the duration of the life of the animal.

(d) The owner, keeper or harbinger of any dog that has been determined to be dangerous shall be required to have the animal surgically sterilized by a licensed veterinarian within thirty days of the dangerous animal determination, at his or her own expense. For any animal required to be surgically sterilized, the ~~Health Officer~~ Supervisor of Animal Control or designee shall collect payment for and issue a spay/neuter voucher at the time of the animal's redemption, and the owner, keeper or harbinger shall provide documentation of the sterilization upon completion. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or micro chipping of the dog. Upon the renewal of the license, the amount will be changed to reflect the altering and micro chipping of the dog.

Any owner, keeper or harbinger failing to provide documentation of the sterilization procedure as required by this section shall be deemed guilty of a misdemeanor.

(e) The owner, keeper or harbinger of any dog that has been determined to be dangerous shall be required to have a microchip, traceable to the dangerous dog and the current owner, inserted into the dog and copies of documentation of said procedure available for review by the ~~Health Officer~~ Supervisor of Animal Control. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or micro chipping of the dog. Upon the renewal of the license, the amount will be changed to reflect the altering and micro chipping of the dog.

Any owner, keeper or harbinger of a dangerous dog who fails to comply with this provision shall be deemed guilty of a misdemeanor.

(f) It is unlawful for anyone having prior felony convictions defined in articles 34, 35, 36, and 43 of Chapter 21, and article 41 of Chapter 65 of the Kansas Statutes Annotated to possess, harbor, own or reside on any premises with a dangerous dog.

(g) It shall be unlawful for any person to:

- (1) harbor, keep or maintain a dangerous dog on property not owned by the person without the written consent of the land owner; or
  - (2) sell, barter or give away to another person a dog which has been deemed dangerous; or
  - (3) own, keep or harbor more than two dogs which have been declared dangerous by this title.
- (h) Should a previously determined dangerous dog be found running at large in violation of this section attack or inflict injury upon any person, the judge of the Municipal Court shall, in addition to any other penalty provided in Section 6.04.190, order the dog destroyed. Provided, however, the judge of the Municipal Court may, at his or her discretion, consider whether the attack or injury was sustained by a person who, at the time, was committing a criminal trespass or other tort upon the premises of the owner of the dog, or was tormenting, abusing, or assaulting the dog, or has, in the past, been observed or reported to have tormented, aroused, or assaulted the dog or was committing or attempting to commit a crime.

SECTION 9. Section 6.04.047 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.047 Signs required.

Upon determination by the ~~Health Officer~~ Supervisor of Animal Control, the owner of a dangerous dog shall display in a prominent place at the entrance to his or her premises a clearly visible warning sign indicating there is a dangerous dog on the premises. A similar sign is required to be posted on the secure enclosure in which the animal is harbored.

SECTION 10. Section 6.04.048 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.048. Registration and insurance.

(a) The owner, keeper or person harboring a dangerous dog shall annually register the dangerous dog with the ~~Health Officer~~ City of Wichita on such forms designated by the ~~Health Officer~~ Chief of Police or designee, and shall have a microchip, traceable to the current owner of the dog, inserted into the dog. The owner, keeper or harbinger shall complete an application and shall pay a \$100.00 annual registration fee to the City of Wichita and shall pay all costs associated with the microchip procedure. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or micro chipping of the dog. Upon the renewal of the license, the amount will be changed to reflect the altering and micro chipping of the dog.

The owner, keeper or person harboring a dangerous dog shall notify the ~~Health Officer~~ City of Wichita in writing a minimum of seven days prior to any change in the address of the owner, keeper or person harboring the dog or the location of the dangerous dog. Any owner, keeper or harbinger of a dangerous dog who fails to comply with this provision shall be deemed guilty of a misdemeanor.

(b) The owner, keeper or person harboring a dangerous dog required to be registered under this Section may be required to maintain liability insurance in the amount of one hundred thousand

dollars for each such dog against the potential injury or damage liabilities and hazards associated with the ownership or possession of such dog. The owner or person harboring a dangerous dog shall file with the ~~Health Officer~~ City of Wichita a certificate of insurance reflecting the required minimum insurance. Any owner, keeper or harbinger of a dangerous dog who fails to comply with this provision shall be deemed guilty of a misdemeanor.

SECTION 11. Section 6.04.050 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.050 Interference with the duty of ~~Health Officer~~ an Animal Control Officer.

It is unlawful for any person to:

- (a) Refuse to identify himself or herself and provide verification of his or her correct name, address, date of birth and any other information reasonably necessary to correctly identify such person when asked to do so by the ~~Health Officer~~ Animal Control Officer, when the ~~Health Officer~~ Animal Control Officer has probable cause to believe that this person has violated a section of this chapter;
- (b) Interfere with, molest, injure or prevent the ~~Health Officer~~ Animal Control Officer in the lawful discharge of his or her duties as herein prescribed, including interference when removing animals from private property and/or when investigating animal concerns.
- (c) Provide false or misleading information to the ~~Health Officer~~ Animal Control Officer when retrieving or claiming an animal from the shelter.
- (d) Knowingly provide false or misleading information to the ~~Health Officer~~ Animal Control Officer during the course of the ~~Health Officer's~~ Animal Control Officer's investigation into possible violations of this chapter or while performing the lawful discharge of the officer's duties.

SECTION 12. Section 6.04.052 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.052. Restrictions on the ownership of Pit Bulls.

- (a) All adult pit bulls within the City of Wichita are required to have an identification microchip implanted in the dog traceable to the current owner and registered with the City of Wichita. Such microchip information shall be included in the dog's annual license application with the City of Wichita. The owner, keeper or harbinger shall pay all costs associated with the microchip procedure.
- (b) It shall be unlawful for any person to own, keep or harbor an adult unaltered pit bull, unless such person is licensed as a dog breeder pursuant to Section 6.04.155. No licensed dog breeder shall own, keep or harbor more than two unaltered adult pit bulls. Such dogs must be micro-chipped as required by this title. The provisions of this section shall not apply to any unaltered pit bull which was located within the City of Wichita as of July 1, 2009, and such dog was being utilized as: (1) a service dog to accommodate an individual with a disability recognized by the Americans with Disabilities Act, or (2) a show dog which has been certified to have been shown

in a qualified show by December 31, 2009. No person shall own more than two such service dogs or show dogs, unless otherwise exempted in this title. Any person who owns such a show dog shall be required by March 31, 2010 to obtain a waiver from the ~~Health Officer~~ Chief of Police or designee in order to retain the unaltered status of the pit bull. Such waiver shall be renewed on an annual basis under the guidelines specified by the ~~Health Officer~~ Chief of Police or designee and shall cost the sum of \$50.00 per waiver per year. Waivers can be revoked by the ~~Health Officer~~ Chief of Police or designee pursuant to the provisions of 6.04.157. Any such service dog or show dog must be micro-chipped as required by this title. Sterilization of a pit bull described in this section, shall not be required upon certification, presented to the ~~Director of Environmental Services~~ Supervisor of Animal Control, by a veterinarian licensed by the state of Kansas, that such sterilization would be injurious to such dog due to its health or age.

(c) It shall be unlawful for any person to own, keep or harbor more than two pit bulls unless otherwise exempted in this title.

(d) It shall be unlawful for more than two adult pit bulls, to be owned, kept, or harbored on the same premises or dwelling.

(e) Any person who owns a pit bull, as of July 1, 2009, shall have six months thereafter, to microchip and surgically sterilize such animal or apply for a breeder's license pursuant to this title, unless exempted under section (b) above. Sterilization of the pit bull shall not be required upon certification, presented to the ~~Director of Environmental Services~~ Supervisor of Animal Control, by a veterinarian licensed by the State of Kansas that such sterilization would be injurious to such dog due to its health or age.

(f) Any person who had a current animal maintenance permit or variance for three or more pit bulls, at the time of passage of the ordinance shall be permitted to keep, but not replace such dogs until their number equals no more than two dogs. Such dogs must be registered, micro-chipped and surgically sterilized in accordance with this title, unless otherwise exempted within this title.

(g) Any person aggrieved by the determination of the ~~Health Officer~~ Chief of Police or designee that a dog is a pit bull as defined by Section 6.04.010 of this title, shall have the right to appeal such determination as set forth in Section 6.04.158.

(h) The provisions of this section shall not apply to dogs which are temporarily located within the City of Wichita for participation in dog shows which are sanctioned by the American Kennel Club, United Kennel Club, the Wichita Kennel Club or the American Dog Breeders Association., or unless otherwise recognized by the ~~Health Officer~~ Chief of Police or designee.

(i) Any individual who fails to comply with the requirements of this section shall be guilty of a misdemeanor.

SECTION 13. Section 6.04.070 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.070. Procedures on retention, observation and disposition of animals which have bitten persons or other animals.

(a) The owner of any animal, which has been determined by the ~~Health Officer~~ Supervisor of Animal Control to have bitten a person or another animal shall confine the animal as directed by the ~~Health Officer~~ Supervisor of Animal Control or surrender such animal



to the ~~Health Officer~~ Animal Shelter for rabies observation. The owner, keeper or harbinger shall be responsible for the payment of any cost of such confinement and any additional fees relative to the confinement or maintenance of the animal. Any costs and/or additional fees assessed by the ~~Health Officer~~ Chief of Police or designee shall be paid by the owner, keeper or harbinger prior to the dog's release.

SECTION 14. Section 6.04.080 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.080 Known rabid animal.

In a case of rabies exposure to domestic animals, such as, but not limited to dogs or cats, when such animal is known to be rabid or has been bitten by a rabid animal or an animal that can be assumed to be rabid using Kansas State Rabies Guidelines, the ~~Health Officer~~ Supervisor of Animal Control may order such animal to be destroyed or confined for a period and in a manner recommended by the Compendium of Animal Rabies Control published by the National Association of State Public Health Veterinarians in a veterinary hospital, animal-care facility, or as specified by the ~~Health Officer~~ Supervisor of Animal Control. In the case of domestic animals unvaccinated against rabies, the ~~Health Officer~~ Supervisor of Animal Control may require post-exposure prophylaxis and one hundred eighty-day confinement of such animals that have been exposed to a known rabid animal at a veterinary hospital, an animal-care facility, or as specified by the ~~Health Officer~~ Supervisor of Animal Control and recommended by the Compendium of Animal Rabies Control published by the National Association of State Public Health Veterinarians. The owner shall be responsible for the payment of any cost of such confinement and any additional fees relative to the confinement or maintenance of the animal, and including fees for post exposure prophylaxis and for any required testing done on the animal. The owner of any animal that is required to be tested for rabies, or any person that requests any animal to be tested, shall be responsible for paying all costs associated with the testing.

SECTION 15. Section 6.04.090 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.090 Failure to confine biting animals.

It is unlawful for any person to fail to confine, fail to keep confined, or permit to run at large, any animal which has been ordered confined by the ~~Health Officer~~ Supervisor of Animal Control for rabies observation or quarantine.

SECTION 16. Section 6.04.100 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.100 Injured animal.

The owner of an injured animal taken to a veterinarian by the ~~Health Officer or his designated agent~~ Supervisor of Animal Control or his or her designee is responsible for the payment of charges for veterinarian services related thereto. The owner shall reimburse the ~~Health Officer~~ Animal Shelter for all expenditures the ~~Health Officer~~ Supervisor of Animal Control may cause to be paid ~~may pay~~ for veterinary services rendered to the owner's animal under this section.

SECTION 17. Section 6.04.110 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.110. Procedure on registration, vaccination certificate and issuance of a license to keep a dog; vaccination requirements for cats and ferrets.

(a) The owner or harbinger of a dog over five months old is required to annually register such dog with the City Treasurer, and to make application for and obtain a license to keep such dog as herein provided. Said license shall be valid for a period not to exceed twelve months. So long as animals are not maintained for a period exceeding one hundred and eighty days, animals maintained in foster care or with a rescue organization, as defined in this title, shall not be required to be licensed until adopted or permanently placed. All dogs placed in foster care or with a rescue organization must be properly vaccinated within seven days of being placed in such foster care or rescue organization.

(b) The owner or harbinger of a dog, cat or ferret over five months old is required to have such dog cat, or ferret inoculated as set forth below:

1. Inoculation must be performed by a person licensed to practice veterinary medicine in the State of Kansas.
2. Inoculation must be with a prophylactic vaccine approved by the United States Department of Agriculture and listed in the current National Association of State and Public Health Veterinarian's Compendium of Rabies Control.
3. Annually, a veterinarian must certify to the City Treasurer, ~~on forms provided by the Treasurer,~~ that such dog has been properly vaccinated in accordance with the current compendium of rabies control. Annually, a new vaccination tag shall be assigned to such dog.
4. Unless a licensed veterinarian certifies to the ~~Director of Environmental Services~~ Supervisor of Animal Control that such vaccination would be injurious to such dog due to its age or health, all dogs or cats must be vaccinated for rabies by a licensed veterinarian at least every three years. Ferrets must be vaccinated for rabies annually.

(c) The City Treasurer, in consultation with the ~~Health Officer~~ Chief of Police or designee, shall provide suitable forms to veterinarians practicing in metropolitan Wichita for the licensing and rabies vaccination of such dogs. Such forms are to be designed to receive information on the dog's name, breed, and description, date, of rabies vaccination, veterinary tag number, microchip number, information whether the dog is spayed or neutered, whether a fenced yard or fenced run is available for confinement of the dog, and owner's name, address and telephone number. The veterinarian shall certify that the dog is properly vaccinated for rabies, or that it is injurious to the

dog's health to receive such vaccination due to its age or health. Such forms will serve as the vaccination certificate, the application to keep a dog, and the actual license when validated. The forms are to be completed by the veterinarian at the time of vaccination and distributed as follows: one copy - city treasurer, one copy - veterinarian; and one copy - dog owner. The dog owner has the opportunity to make payment for the license fee at the veterinarian's office. However, the dog owner may elect to remit the license fee at the city treasurer's office, in which case the form shall be validated by an appropriate City Treasurer stamp. If the license fee payment is submitted to the veterinarian, all form copies shall be validated with a numbered City of Wichita stamp which shall be supplied by the City Treasurer. The veterinarian shall retain his or her copy for ~~two~~ three years for his or her own use and for possible reference use by the City Treasurer. The City Treasurer shall provide postage-guarantee addressed envelopes to veterinarians for their use in facilitating payment of license fees to the city. All such license fees collected by veterinarians shall be submitted to the City Treasurer not later than thirty days following the last day of the month in which the license fee was collected.

(d) The premises of the dog owners shall be available for inspection by the ~~Health Officer~~ Supervisor of Animal Control or designee to insure a fenced yard or fenced run is available that can adequately confine the dog, if so stated in the license application, and to insure that such animals are maintained on premises which are sanitary.

(e) The owner of a dog will provide, upon request of the ~~Health Officer~~ Supervisor of Animal Control or designee, proof of current licensure and vaccination.

(f) The owner of a cat or ferret will provide, upon request from the ~~Health Officer~~ Supervisor of Animal Control or designee, proof of current vaccination.

SECTION 18. Section 6.04.140 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.140. Vaccination and identification tags.

(a) The veterinarian administering the rabies vaccination shall issue a metallic tag for the particular dog vaccinated, on which tag shall be distinctly marked the veterinarian's name or veterinary clinic's name, address, and tag identification number. The year of issuance also shall be distinctly marked, which shall be the same as the year of vaccination or rabies certification for such animal. A new vaccination tag shall be issued in accordance with the procedures established in 6.04.110. The owner of any dog which is determined by the ~~Health Officer~~ Supervisor of Animal Control or designee to be running at large while not wearing a collar with identification consisting of the owner's name and current address, or if such dog is over five months old, a current rabies vaccination tag, is guilty of a misdemeanor.

SECTION 19. Section 6.04.155 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.155. Dog breeder license; breeder inspections.

(a) No person shall be a dog breeder, as defined by Section 6.04.010, unless such person is properly licensed by the City of Wichita as a breeder.

(b) All dog breeders, shall make an application for, and obtain an annual dog breeder's license as established and described by this section.

1. An application for a breeder's license shall be obtained from the City Treasurer's Office, ~~Environmental Services~~, Animal Services or the City of Wichita's website. The application shall contain the following information:

- a. The name, date of birth and address of the applicant;
- b. The name, breed, color, sex and age of all dogs owned by the applicant;
- c. Documentation that all animals are properly vaccinated and licensed;
- d. Name and address of the licensed veterinarian who is responsible for the care and treatment of the animals;
- e. A signed statement by the applicant that the information is true and correct;
- f. The permanent ID or microchip number of all animals owned, if available;
- g. A statement as to whether there is a fenced yard or fenced run available for the confinement of the dogs.
- h. A statement as to whether the applicant has ever had a licensed suspended or revoked which was issued by the State of Kansas pursuant to the Kansas Pet Animal Act. Such statement shall contain the date of any such suspension or revocation.
- i. The zoning classification for the premises where the animals will be maintained.
- j. A copy of any current license issued to the applicant by the State of Kansas pursuant to the Kansas Pet Animal Act.

2. The ~~Health Officer~~ Chief of Police or designee is empowered to establish administrative requirements for obtaining dog breeder licenses. Application forms and administrative requirements can be obtained through Animal Services, ~~Environmental Services~~, City Treasurer, or the City website.

(c) Approval of dog breeder licenses shall be contingent upon the applicant's compliance with all administrative requirements set forth by the ~~Health Officer~~ Chief of Police or designee including, but not limited to, proper veterinary care, health certification of breeding stock and offspring, and compliance with all applicable requirements, and/or regulations of the City of Wichita and the State of Kansas.

(d) The ~~Health Officer~~ Chief of Police or designee may refuse to approve issuance or renewal of, or revoke, a breeder's license for one or more of the following conditions:

1. Failure of the applicant to provide proof that the animals are properly licensed and vaccinated;
2. The making of any false statement as to any material matter in the application for a license, or a license renewal, or in a hearing concerning the license;
3. Violation by the applicant of a provision of this title, the Kansas Pet Animal Act or any state or federal law relating to the care and treatment of animals;
4. Suspension or revocation of a license issued by the State of Kansas pursuant to the Kansas Pet Animal Act; or
5. The applicant has a history of allowing animals to run loose or escape, has otherwise been found to be neglectful, has had an animal identified as a nuisance, or has previously been determined to have violated the provisions of this title.

(e) No breeder's license shall be approved or renewed for premises zoned residential by the Wichita/Sedgwick County Unified Zoning Code.

(f) No breeder's license shall be approved for an individual who owns more than two unaltered pit bulls, unless otherwise exempted within this title. If the ~~Health Officer~~ Chief of Police or

designee refuses to issue or renew a license under this section, such individual shall have the appeal rights established by Section 6.04.158.

(g) The fee for a breeder license is established at fifty dollars annually. Such licenses shall expire one year from the date of issue. The City Treasurer shall impose a penalty of fifty dollars annually on all delinquent license renewals beginning thirty days following the expiration of the previous license. Failure by a person to obtain a breeder license as required by this section shall constitute a misdemeanor. Conviction of two or more violations of this code within a two-year period may result in revocation of the breeders' license. The individual shall be precluded from obtaining a breeder's license for a period of twenty-four (24) months following the revocation.

(h) All places and premises by licensed breeders or persons seeking approval for a breeder license as described by this chapter shall be open during reasonable hours for inspection by ~~the Health Officer~~ Animal Control in order to ensure the health, safety, and welfare of the animals on said property. If upon such an inspection by ~~the Health Officer~~ Animal Control any person who has been granted or applied for a license is found violating any of the regulations prescribed in this chapter, or any provisions within the Unified Zoning Code, or any administrative regulation established by the ~~Health Officer~~, Chief of Police or designee, such person shall be given a written notice of such violation. If such violation or violations of this code do not or cannot cease within twenty-four hours of such notification, the permit, or license may be revoked or canceled by action of the ~~Health Officer~~ Chief of Police or designee, pursuant to the procedures set forth in Section 6.04.159 of this code.

(i) It shall be unlawful for any breeder of pit bulls, as defined by this title, to engage in the breeding of such animals with an owner, keeper or harbinger of a pit bull involved in the breeding process who is not also licensed as a breeder.

(j) Upon a first conviction of a violation of the provisions of this section, a minimum fine of \$100.00 shall be imposed. Upon a second or subsequent conviction, of a violation of the provisions of this section, a minimum fine of \$250.00 shall be imposed. In addition, the Municipal Court Judge may impose a term of imprisonment not to exceed six months and/or a fine not to exceed one thousand dollars.

SECTION 20. Section 6.04.157 of the Code of the City of Wichita, Kansas is amended

to read as follows:

Sec. 6.04.157. Maximum number of dogs and cats and maintaining livestock.

(a) No person shall own, keep or harbor upon any premises or property, or in any dwelling of any type within the city:

1. Livestock;
2. More than two dogs;
3. More than two cats;
4. More than two rabbits;
5. More than three fowl; or
6. More than three pigeons;

unless such person has a current Animal Maintenance Permit or variance issued by the ~~Health Officer~~ Chief of Police or designee authorizing the maintenance of such animals. The provisions of this section shall not apply to common carriers transporting domestic animals to or through the City. Permits shall not be required for indoor non-commercial maintenance of fish,

nonpoisonous amphibians and reptiles allowed by Section 6.04.040, birds and small rodents. Any individual who fails to comply with the requirements of this section shall be deemed guilty of a misdemeanor.

(b) No person shall keep, own, or harbor upon any premises or property or in any dwelling of any type within the city, more than three different kinds of domestic animals or livestock unless such person has a current animal maintenance permit or variance issued by the ~~Health Officer~~ Chief of Police or designee authorizing the maintenance of such animals. Any individual who fails to comply with the requirements of this section shall be deemed guilty of a misdemeanor.

1. Any person, rescue organization or foster care home, who desires to own, keep, or harbor livestock, or more than two dogs or more than two cats or more than two rabbits, or more than three fowl or pigeons, shall apply the City of Wichita for an 'animal maintenance permit' that shall permit the applicant to own, keep or harbor the animals specifically allowed in that permit.

2. Any person, rescue organization or foster care home, who desires to own, keep or harbor more than three different kinds of domestic animals shall apply with the City of Wichita for an animal maintenance permit that shall permit the applicant to own, keep or harbor more than three different kinds of domestic animals.

TABLE 1:

TABLE INSET:

KIND OF ANIMAL	MINIMUM REQUIRED FOR PERMIT	MAXIMUM ALLOWED WITH PERMIT	PERMIT FEE
Dogs, excluding pit bulls	3	4	\$25.00
Cats	3	4	\$25.00
Fowl	4	12 (25 pigeons)	\$25.00
Sheep	1	One animal per acre	\$100.00
Goats--(Nannies only)	1	One animal per acre	\$100.00
Horses	1	One animal per acre	\$100.00
Cattle	1	One animal per acre	\$100.00
Ratites	1	One animal per acre	\$100.00
Pig--Neutered, miniature Vietnamese Pot-Bellied	1	1	\$25.00
Rabbits	4	12	\$25.00
Other	3	(25 fur-bearing animals, i.e. chinchilla, mink)	\$100.00

Owning more than three kinds of animals, regardless of number of animals, requires the owner to obtain an Animal Maintenance Permit. Any combination of permit fees will not exceed \$100.00 per application. If a permit application is denied, 50% of the proposed permit fee will be retained for the administrative costs incurred.

3. It is unlawful for any person to own, harbor or maintain more animals or different types animals than is allowed by the Animal Maintenance Permit issued to such person by the ~~Health Officer~~ Chief of Police or designee.

4. The ~~Health Officer~~ Chief of Police or designee is empowered to establish administrative requirements for obtaining an Animal Maintenance Permit. Application forms and administrative requirements can be obtained through Animal Services, ~~Environmental Services~~, City Treasurer or the City website.

The application shall contain the following information:

- a. The name, date of birth and address of the applicant;
- b. The name, breed, color, sex and age of all animals owned by the applicant;
- c. Documentation that all animals are properly vaccinated and licensed;
- d. Name and address of the licensed veterinarian who is responsible for the care and treatment of these animals;
- e. A signed statement by the applicant that the information is true and correct;
- f. The permanent ID or microchip number of all animals owned, if available;
- g. A statement as to whether the animals are spayed or neutered and whether there is a fenced yard or fenced run available for the confinement of the animals.
- h. The size of the premises in which the animals may be maintained.
- i. A diagram of the location of any and all domestic animal structures in which animals will be maintained.
- j. A signed statement on behalf of the applicant that maintenance of the animals will be in compliance with the animal control and sanitary waste requirements of the City of Wichita.
- k. A statement by the applicant that the zoning requirements of the Unified Zoning Code of the City of Wichita and Sedgwick County will be complied with.
- l. A statement as to whether the applicant has ever had a license suspended or revoked which was issued by the State of Kansas pursuant to the Kansas Pet Animal Act. Such statement shall contain the date of any such suspension or revocation.
- m. A copy of any current license issued to the applicant by the State of Kansas pursuant to the Kansas Pet Animal Act.

5. Approval of an Animal Maintenance Permit shall be contingent upon the applicant's compliance with all administrative requirements set forth by the ~~Health Officer~~ Chief of Police or designee, the provisions of this title and the rules and the rules and regulations of the City of Wichita and the State of Kansas. Such applicant must show:

- a. that the keeping of additional animals will not create a nuisance in the surrounding neighborhood, that humane care will be provided and that the premises where the animals are kept is suitable for the keeping of multiple animals and is in conformity with all City zoning requirements. The criteria to be evaluated include, without being limited to, the following:
  - 1) That the animals will be kept or maintained at all times in a safe and sanitary manner.
  - 2) That the quarters in which such animals are kept or confined will be adequately lighted and ventilated and are so constructed and maintained that they can be kept in a clean and sanitary condition.
  - 3) That the health and well-being of the animals will not in any way be endangered by the manner of keeping or confinement.
  - 4) That the keeping of such animals will not harm the surrounding neighborhood or disturb the peace and quiet of the surrounding neighborhood.

- 5) That the keeping of such animals will not cause fouling of the air by offensive odors and thereby create or cause unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animals are kept or harbored.
  - 6) That the animals will not unreasonably annoy humans, endanger the life, health or safety of other animals or persons or substantially interfere with the rights of citizens to the enjoyment of life or property.
  - 7) That the animals will not make disturbing noises, including but not limited to, continued and repeated or untimely howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors and others in close proximity to the premises where the animals are kept or harbored, or otherwise be offensive or dangerous to the public health, safety or welfare, by virtue of their behavior, number, type or manner of keeping.
  - 8) That the applicant, or any person who will share in the care, custody and control of the animals, is not currently in violation of, or has not previously violated any applicable City, state or federal laws, codes, rules or regulations, including, but not limited to, those pertaining to the care and control of animals and the maintenance of their property, which would reflect adversely on their ability to fully comply with the conditions of the subject permit.
- b. The ~~Health Officer~~ Chief of Police or designee may deny any application where any one or more of the following conditions exist:
- 1) The applicant fails to show proof of the aforementioned requirements or an examination of the documentation submitted by the applicant;
  - 2) An investigation by Animal Services reveals that the applicant has failed to meet the requirements of this section.
  - 3) The applicant made a false statement as to any material matter in the application for a license of a license renewal, or in a hearing concerning the license.
  - 4) Violation by the licensee or applicant of a provision of this title, the Kansas Pet Animal Act or any state or federal law relating to the care and treatment of animals.
  - 5) If the applicant has had a breeder's license or animal maintenance permit revoked within eighteen (18) months prior to the application.
  - 6) If the applicant has had a license issued by the Kansas Department of Animal Health suspended or revoked within eighteen (18) months prior to the application.
  - 7) Maintenance of the animals would be in violation of the Unified Zoning Code of the City of Wichita.
  - 8) No Animal Maintenance Permit shall be issued to own, keep, or harbor more than two adult pit bull dogs.
  - 9) The applicant has a history of allowing animals to run loose or escape, has otherwise been found to be neglectful, has had an animal identified as a nuisance, or has previously been determined to have violated the provisions of this title.
- c. The ~~Health Officer~~ Chief of Police or designee shall state, in writing, the factual basis for his or her recommendation to grant or deny any application. The ~~Health Officer~~ Chief of Police or designee shall consider past violations, the size, condition and location of the area where the animals will be kept, the size of the animals to be kept, past complaints concerning the applicant, the burden of proof and the criteria set forth in this section, or any other factors relative to the issue of keeping additional animals.
- The permit shall be issued for the period not to exceed twelve (12) months.
- d. The fee for such Animal Maintenance Permit shall be paid in accordance with Table 1 of Subsection (b)(2). All fees shall be nonrefundable and nontransferable. The Animal Maintenance



Permit shall be issued for the individual animals listed on the application and shall not be transferable to other animals. The fact an individual has previously been issued an animal maintenance permit may be considered but shall not be controlling to the ~~Health Officer's~~ Chief of Police or designee's decision to issue animal maintenance permit for a different animal. The denial of any Animal Maintenance Permit shall be subject to the appeal procedures set forth in Section 16.04.158.

e. Any applicant who had more than two cats or more than two dogs or livestock prior to annexation of their property by the City, shall be permitted to keep but not replace said animals until their number equals the number of animals permitted by Section 6.04.157(a). Any such applicant shall be required to apply for an Animal Maintenance Permit and be required to pay a yearly renewal fee, provided that nothing in this section shall exempt or except any applicant or any other person from the registration, vaccination or any other requirement of this chapter.

f. Any individual who had a current Animal Maintenance Permit or variance at the time of passage of this ordinance shall be permitted to keep but not replace said animals until their number equals the number of animals permitted by Section 6.04.157(a). Any such applicant shall be required to apply for an Animal Maintenance Permit and be required to pay a yearly renewal fee, provided that nothing in this section shall exempt or except any applicant or any other person from the registration, vaccination or any other requirement of this chapter.

g. Any individual who had a current Animal Maintenance Permit or variance for livestock at the time of passage of this ordinance shall be permitted to keep but not replace said animals. Any such applicant shall be required to apply for an Animal Maintenance Permit and be required to pay a yearly renewal fee, provided that nothing in this section shall exempt or except any applicant or any other person from the registration, vaccination or any other requirement of this chapter.

h. For the purposes of this section:

1) *Nuisance* for the purposes of this section, shall be defined as any act which is unreasonably annoying or vexatious to another or substantially interferes with the rights of others and shall include, but not be limited to, obnoxious odors, excessive noise, and creation of an environment attractive to other animals or insects. More than three substantiated violations of this title within a twelve-month period will automatically constitute a nuisance.

2) *Humane standards of care* shall be defined to include, but not be limited to, accessibility of the animal to food and water, proper medical attention, proper shelter from the elements, and cleanliness in animal waste areas with regular waste removal.

3) *Livestock* includes, but is not limited to: horses, mules, cattle, sheep, llamas, ratites and goats.

i. Not more than one head of livestock shall be kept for each one acre of contiguous unbuilt land area, provided that the limitation shall not apply to a commercial riding stable, a riding academy, or a commercial stockyard with an approved manure disposal plan.

j. Owners of livestock within the City without an Animal Maintenance Permit or variance on the date of the passage of this ordinance shall be allowed twelve months from the date of adoption to come into compliance with the acreage requirements set forth in subsection (1).

k. Owners of livestock within the City with a current Animal Maintenance Permit or variance at the date of the adoption of the ordinance shall be permitted to keep, but not replace said animals.

l. All owners or harborers of livestock must comply with the provisions of Section 6.04.173 regarding the maintenance of all domestic animal structures.

- m. The holder of an Animal Maintenance Permit will provide, upon request of the ~~Health Officer~~ Supervisor of Animal Control or designee proof of licensure where applicable, and vaccination of any animals subject to the Animal Maintenance Permit.
- n. The premises designated in the animal maintenance permit shall be available for inspection by the ~~Health Officer~~ to ensure compliance with the provisions of this code and the laws of the State of Kansas.
- o. The holder of an animal maintenance permit will notify the ~~Health Officer~~ City of Wichita if any of the animals subject to the animal maintenance permit is no longer owned by the individual. Any individual who fails to comply with the requirements of this section shall be deemed guilty of a misdemeanor.
- 6. Variances. Any application for a variance to own, keep, or harbor more than four (4) dogs or four (4) cats or any combination thereof in excess of four (4) or for a variance to the requirements of this chapter based on physical or geographical features of the site, or required acreage for livestock, may be granted by the ~~Director of Environmental Services~~ Chief of Police or designee if he or she determines that the variance will not adversely affect public health and safety or the environment, pose a threat to the environment or constitute a nuisance to neighbors.
  - a. The applicant shall complete an application form and pay all applicable fees for an animal maintenance variance. Such application shall include the information set forth in the application for an Animal Maintenance Permit. In addition to the fees set forth in Subsection (b)(2), the applicant shall pay an initial inspection fee of \$50.00 to the City of Wichita. No inspection fee shall be assessed for subsequent renewals of any variance.
  - b. In making the determination as to whether the variance request should be granted, the ~~Director of Environmental Services~~ Chief of Police or designee shall rely on the criteria set forth in subsection (4) of this section.
  - c. The ~~Director~~ Chief of Police or designee shall notify the applicant for the variance of his or her determination of the request in writing stating the basis for any denial and any conditions placed on any granted variance request. Individuals aggrieved by any decision of the ~~Director of Environmental Services~~ Chief of Police or designee relative to waivers may appeal to the City Council within ten days of the notice of such decision pursuant to Section 6.04.210 of this Code.

SECTION 21. Section 6.04.158 of the Code of the City of Wichita, Kansas is amended

to read as follows:

Sec. 6.04.158. Appeal from denial of breeder's license, animal maintenance permit, or determination that dog is a Pit Bull.

- (a) If the ~~Health Officer~~ Chief of Police or designee has determined that an applicant is not eligible for a Breeder's License or Animal Maintenance Permit, he or she will make an appropriate determination based on the known facts and consistent with the provisions of this title.
- (b) The ~~Health Officer~~ Chief of Police or designee shall notify the individual of the denial in writing, stating the reasons for the denial of such application. Service of the notice shall be by certified mail, return receipt requested. Service of process by certified mail shall be considered obtained upon the delivery of the certified mail envelope.

- (c) The applicant of a denied application or the owner of a dog deemed to be a pit bull may request an administrative review of the determination by filing a written request with the ~~Health Officer~~ Chief of Police or designee within ten days of receipt of such notification.
- (d) The ~~Health Officer~~ Chief of Police or designee will conduct a hearing within ten days of receipt of the owner's request. At such hearing, testimony may be offered by the owner of the dog(s) or animals, the ~~Health Officer~~, Animal Control Officers and/or staff of Animal Control, neighbors, or other affected persons, and veterinarians concerning the lineage of the dog, or the care and maintenance of the dog.
- (e) The ~~Health Officer~~ Chief of Police or designee shall determine an appropriate disposition based on the facts determined at the hearing and the provisions of this chapter and will notify the applicant in writing of the outcome of the hearing within five business days. The owner may appeal the hearing outcome as provided in Section 6.04.210 of this Code.

SECTION 22. Section 6.04.159 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.159. Revocation or suspension of license or permit.

- (a) The ~~Health Officer~~ Chief of Police or designee, upon written notice to the licensee or permit holder, shall have the authority to suspend or revoke any permit, license or variance granted by the ~~Health Officer or the Director of Environmental Services~~ Chief of Police or designee for one or more of the following reasons:
- (1) Violation by the licensee or permit holder of the provisions of this title, the Kansas Pet Animal Act, or other state or federal laws relating to the care and maintenance of animals.
  - (2) Obtaining the license or permit by fraudulent conduct, false statements or has otherwise made a material misrepresentation of fact in the application.
  - (3) Upon inspection, the ~~Health Officer~~ Supervisor of Animal Control or designee observes premises which are not in a clean and sanitary condition in compliance with the health standards set forth in this title.
  - (4) The licensee or permit holder has violated any terms or conditions of the license, permit or variance.
  - (5) The animal's place of keeping constitutes a nuisance to the surrounding neighbors;
  - (6) Humane standards of care are not being met by the permittee;
  - (7) A violation of Unified Zoning Code has occurred;
  - (8) The licensee or permit holder had provided false information in their application.
  - (9) The licensee or permit holder has had a license issued by the State of Kansas pursuant to the Kansas Pet Animal Act or any other governmental agency related to the care of animals suspended or revoked.
  - (10) The licensee or permit holder cannot be contacted for an inspection within two weeks of an initial request for an inspection of such premises or the licensee or permit holder refuses the animal control officer access for an inspection.
- (b) Individuals aggrieved by the suspension or revocation of any permit, license or variance may appeal to the City Council within ten days of the notice of such decision as set forth in Section 6.04.210 of this code.

- (c) An appeal taken from an order of suspension or revocation shall not suspend the order of suspension or revocation during the pendency of such appeal.
- (d) For the purposes of subsection (a) above, written notice shall be deemed sufficient upon the mailing of the notice to the applicant for the permit or license on file in the Office of the City Treasurer.

SECTION 23. Section 6.04.160 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.160 Authorization for quarantine.

The ~~Health Officer~~ Chief of Police or designee shall advise the City Manager, who shall report to the Mayor in the event a potential outbreak of rabies is suspected in the dog or cat population in the city. If the Mayor concurs with the ~~Health Officer~~ Chief of Police or designee that the danger of the public safety from rabid animals is reasonably imminent, the Mayor is hereby authorized and it shall be his or her duty to issue a quarantine proclamation ordering persons owning, keeping or harboring any dog or cat to muzzle the same and/or confine it as provided in this chapter for such time as may be specified in such quarantine proclamation. Upon the issuance of such proclamation by the Mayor, any dogs, cats or other animals capable of transmitting rabies found running at large during the time specified by the Mayor in his quarantine proclamation may be killed by any officer of the city under procedures established by the ~~Health Officer~~ Chief of Police or designee.

SECTION 24. Section 6.04.170 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.170. Dog and cat census.

Whenever deemed necessary, the ~~Health Officer~~ Chief of Police or designee may conduct a dog and cat census of any or all areas of the city as needed to insure that all dogs over five months old harbored in the city are vaccinated and licensed and that all cats over five months old harbored in the city are properly vaccinated.

SECTION 25. Section 6.04.172 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.172. Swine and goat maintenance.

(a) Except as provided in subsection (b) of this section, it is unlawful for any person to keep or maintain any swine or male goats within the corporate limits of the city, except for stockyards or packing house operations, special scientific operations in industrial areas or activities in conjunction with livestock shows. Other industrial or agricultural maintenance of swine may be approved, if the industrial or agricultural premises is located five hundred or more feet from any

residentially zoned lot as defined by the Unified Zoning Code. This distance requirement may be waived by the ~~Director of Environmental Services~~ Chief of Police or designee.

(b) Registered purebred miniature Vietnamese potbelly pigs and other similar registered purebred miniature pigs may be kept within the city limits, subject to the conditions stated in subsections (c) and (d) of this section.

(c) It is unlawful for any person to maintain a registered purebred miniature pig which:

- (1) Weighs more than eighty pounds;
- (2) Is not spayed or neutered upon reaching maturity;
- (3) Has not undergone a blood test to show the animal is free from pseudo rabies; or
- (4) Is maintained as a food source.

(d) It is unlawful for any person to:

- (1) Keep a registered purebred miniature pig without a current animal maintenance permit as required by Section 6.04.157 of the Code of the City of Wichita;
- (2) Maintain more than one registered purebred miniature pig on any licensed premises.

SECTION 26. Section 6.04.173 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.173. Domestic animal structures and enclosures.

(a) Domestic animal structures used for livestock and livestock feeding and watering troughs shall not be less than two hundred feet from any adjacent dwelling and not less than twenty feet from any property line.

(b) Stables, coops, pens and other structures for the housing of animals shall comply with all zoning requirements of the City of Wichita-Sedgwick County Unified Zoning Code.

(c) The ~~Director of Environmental Services~~ Chief of Police or designee will evaluate properties and may issue waivers of distance and setback requirements for domestic animal structures where such waivers do not adversely affect public health and safety, pose a threat to the environment or constitute a nuisance to neighbors. Criteria for review for such variance will include, in addition to site-specific requirements, the following requirements:

- (1) That the animals will be kept or maintained at all times in a safe and sanitary manner;
- (2) That the quarters in which such animals are kept or confined will be adequately lighted and ventilated and are so constructed and maintained that they can be kept in a clean and sanitary condition;
- (3) That the health and well-being of the animals will not in any way be endangered by the manner of keeping or confinement;
- (4) That the animals will not unreasonably annoy humans, endanger the life, health or safety of other animals or persons or substantially interfere with the rights of citizens to the enjoyment of life or property;
- (5) That the keeping of such animals will not harm the surrounding neighborhood or unreasonably disturb the peace and quiet of the surrounding neighborhood;
- (6) That the keeping of such animals will not cause fouling of the air by offensive odors and thereby create or cause unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animals are kept or harbored;

- (7) That the animals will not repeatedly run or be found at large, will not damage property or deposit excretory matter upon the property of anyone other than their owner;
  - (8) That the animals will not make disturbing noises, i.e., continued and repeated or untimely howling, barking, whining or other similar utterances causing unreasonable annoyance, disturbance or discomfort to neighbors where the animals are kept or harbored, or otherwise be unreasonably offensive or dangerous to the public health, safety or welfare, by virtue of their behavior, number, type or manner of keeping;
  - (9) That the applicant or any person who will share in the care, custody and control of the animals, is not currently in violation of, or has not previously violated any applicable city, state or federal laws, codes, rules or regulations, including, but not limited to, those pertaining to the care and control of animals and the maintenance of their property, which would reflect adversely on their ability to fully comply with the conditions of the subject permit.
- (e) In considering waivers for Domestic Animal Structures, the ~~Director of Environmental Services~~ Chief of Police or designee will consider:
- (1) Specific location of the animal structure or enclosure on the property in question;
  - (2) The size of the lot and distance of the structure or enclosure to adjacent property lines and dwellings;
  - (3) Structures located on or uses made of the adjacent property and the likelihood that a waiver would adversely affect the use of the adjacent property;
  - (4) Type and number of animals to be maintained and the potential for creation of a nuisance;
  - (5) Any history of complaints and violations concerning the permit holder's compliance with this code or violations of local, state or federal law;
  - (6) Any comments of neighbors; and
  - (7) Any other available information concerning the potential for creation of a nuisance.
- The ~~Director~~ Chief of Police or designee shall notify the applicant for the variance of his or her determination of the request in writing stating the basis for any denial and any conditions placed on any granted variance request. Individuals aggrieved by any decision of the ~~Director of Environmental Services~~ Chief of Police or designee relative to waivers may appeal to the City Council within ten days' of notice of such decision as set forth in Section 6.04.210 of this Code.

SECTION 27. Section 6.04.175 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.175. Health standards--Minimum listed.

That the following minimum environmental health standards shall be observed and followed by persons subject to the terms of this title:

- (a) All domestic animal structures shall be cleaned at least once each week or as often as necessary to prevent or control odors, fly breeding and rodent infestation; provided, however, that this shall not apply to grazing areas or to stockyards.
- (b) Domestic animal structures owned or operated by a stockyard shall be cleaned as often as is necessary, as determined by the ~~Health Officer~~ Supervisor of Animal Control or designee to control fly breeding or to control other conditions adversely affecting the public health.
- (c) Collected fecal material and other solid organic waste shall be disposed of at a sanitary landfill or transfer station, fertilizer processing plant, by property dispersal on land used for

agricultural purposes or other method approved by the ~~Health Officer~~ Chief of Police or designee.

(d) Grain or protein feed shall be stored in tightly covered rodent-proof metal containers or rodent-proof bins.

(e) Premises subject to the terms of this code shall be maintained free of rodent harborage.

(f) Use shall be made of effective chemical or other approved means for the control of rodents and flies.

(g) Use shall be made of soil sterilants and herbicides or other effective means for the control of weeds and grass around structures and buildings.

(h) All domestic animal structures and fences shall be maintained in good repair.

(i) Enclosures, including fences, for livestock shall be constructed in a manner to prevent domestic animals from breaking out or causing hazard to persons or property.

(j) Garbage shall not be fed to fowl.

(k) Refuse shall be stored in a manner approved by the ~~Health Officer~~ Supervisor of Animal Control and disposed of at least once each week or as frequently as may be required by the ~~health officer~~ Supervisor of Animal Control.

(l) Wastes accumulated from the cleaning of domestic animal structures shall be stored in suitable containers, with tight-fitting metal lids, and all such stored or accumulated wastes shall be disposed of at least once each week.

(m) Barbed-wire fences and electrically charged fences shall not be permitted in residentially zoned districts except in situations where the barbed wire fence or electrically charged fence is protected by an exterior fence.

(n) Holding lots, pens and floors of sheds and buildings where animals are held shall be surfaced with concrete or asphaltic materials and the drainage system of such surfaced areas shall include proper retaining walls and traps to control the waste from draining into water courses. Such drainage systems shall be subject to the approval of the ~~Health Officer~~ Supervisor of Animal Control. The ~~Health Officer~~ Supervisor of Animal Control may waive this standard for animal holding operations where such animal holding is longer than twenty-four hours or where dirt lots are more appropriate to the proper care of cattle, horses, sheep or other livestock.

(o) Wastes accumulated from the cleaning of domestic animal structures in commercial or industrial operations shall be stored on concrete slabs or on an area with an impermeable barrier as approved by the ~~Health Officer~~ Supervisor of Animal Control. All solid wastes shall be properly disposed of at least once each week or as often as necessary to prevent any associated nuisances, or as approved by the ~~Health Officer~~ Supervisor of Animal Control.

(p) Slaughter of animals is prohibited on residentially zoned lots or lots utilized for residential purposes. This prohibition shall not apply to processing of fish or game lawfully taken for individual consumption, nor shall it apply to the slaughter of animals as part of religious practices to be conducted on the property on which the slaughter occurs.

Any individual who fails to comply with the requirements of this section shall be deemed guilty of a misdemeanor.

SECTION 28. Section 6.04.176 of the Code of the City of Wichita, Kansas is amended

to read as follows:

Sec. 6.04.176. Pet shop, stables, kennel, commercial animal facilities, and animal "day care" regulations.

It shall be unlawful for any pet shop, rescue organization, animal foster care organization, commercial animal facility, groomer, breeder, kennel, stable or animal "day care" business to fail to:

- (a) Maintain and retain records for a two-year period on all animals maintained in such facility. Such records shall show breed, color, markings, sex and age; date received and source, including name and address of owner or previous owner; date and disposition of animal, including name and address of new owner if applicable; disease prevention and/or treatment and by whom. Such records shall be made available to the ~~Health Officer~~ Supervisor of Animal Control upon request for inspection;
- (b) Provide cages and pens constructed of nontoxic, easily cleanable, water-impervious materials if used for confining animals and shall keep such cages and pens clean and sanitary at all times;
- (c) Provide adequate space and ventilation to prevent overcrowding, odors, and minimize contagion;
- (d) Provide general environmental conditions including endoparasite and ectoparasite control, clean wholesome food and water, weather protection and clean and sanitary facilities so as to enhance the health and well-being of such animals.
- (e) Maintain a building temperature at a comfortable level. Maintain adequate ventilation by means of windows, doors, vents and fans.
- (f) Provide each animal with sufficient space to stand up, lie down and turn around in a natural position without touching the sides or top of the enclosure. If additional space is not provided, either indoor or outdoor, then this enclosure must provide an adequate exercise area.
- (g) All enclosures shall be kept clean and dry.
- (h) Provide food which is free from contamination, and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal.
- (i) Provide all animals with fresh water available at all times, except as part of a veterinary treatment regimen.
- (j) Provide veterinary care to maintain good health and general welfare.
- (k) Maintain the premises of such business, and any domestic animal structures on such premises, in a clean and sanitary condition in compliance with the health standards set forth in this chapter.
- (l) Comply with all provisions of the Unified Zoning Code.

Any individual who fails to comply with the requirements of this section shall be deemed guilty of a misdemeanor.

SECTION 29. Section 6.04.210 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.210. Appeal from ~~Health Officer~~ Chief of Police or designee's rulings.



Unless otherwise specified, any person dissatisfied with any order or determination of the ~~Health Officer~~ Chief of Police or designee made under his or her authority pursuant to this chapter may appeal such order or determination to the City Council. An appeal shall be a de novo quasi-judicial proceeding from which further appeal may be taken to the district court. An appeal must be filed with the City Clerk no more than ten business days from the date of the written order appealed from. The City Council will hear the appeal no later than thirty days from the filing of such appeal.

SECTION 30. Section 6.04.215 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.215. Dogs prohibited in parks; exceptions.

Except as otherwise allowed for by this title, it is unlawful for any person to allow or permit any dog to run at large in any park or to permit any dog, with or without a leash, except for service dogs or dogs used by public law enforcement agencies and under the control of a law enforcement officer, to enter any public beach, wading area, pond, fountain, stream or designated children's play area. The Director of Parks and Recreation and the ~~Director of Environmental Services~~ Chief of Police or designee may ban dogs or other animals, or a specific dog or other animal from areas of any park where he or she determines the same to be a nuisance.

SECTION 31. Section 6.04.218 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.218. Designation of dog parks, off-leash areas; rules and regulations; penalties for offenses.

(a) Dogs may be allowed to run at large only in dog parks and off-leash areas as designated by the Wichita City Council. The designation of such parks and off-leash areas shall be made at the recommendation of the Director of Park and Recreation and the ~~Director of Environmental Services~~ Chief of Police or designee.

(b) It shall be unlawful for any dog owner to violate any of the following regulations regarding the use of any City designated dog park or off-leash area in a park owned by the City of Wichita:

(1) All dogs that enter the park must be over five months of age, not in heat, and have a valid license and current rabies vaccination with an accompanying tag. The tag must be securely affixed to the dog's collar at all times.

(2) All dogs must be leashed when entering or leaving the park's fenced enclosures and owners must retain possession of the leash at all times when within the parks fenced enclosure.

(3) Owners must be at least 14 years of age and remain within the park's fenced enclosure and in control of all dogs under their care at all times when within the park. Owners are limited to 3 dogs per visit.

(4) Owners shall immediately pick up their dogs' excrement and deposit it in the designated receptacle.

(5) Aggressive, vicious or contagious dogs are prohibited from use of the park.

- (6) Owners shall immediately close and secure the gate upon entering or exiting the confines of the park's fenced enclosure.
- (7) Entrance within the park in violation of its posted hours or when closed is prohibited.
- (8) No animals, other than dogs, may be brought into the dog parks.
- (9) Dogs must never be left unattended. The dog owner must be in reasonable control of his or her dog(s) at all times and keep a leash available at all times.
- (10) Dogs may not be brought into the park if they are sick or unhealthy, have a history of aggressiveness, or have been adjudicated a dangerous dog.
- (11) No food or treats for human or animal consumption, rawhide chews, alcoholic beverages, glass containers, bicycles, skateboards, motorbikes, scooters, or roller blades will be allowed in the dog park area. Littering is prohibited. Smoking is prohibited inside the park and within ten feet of the park's parameter.
- (12) Dog owners must immediately fill any holes their dogs dig.
- (13) Professional dog trainers and behaviorists are not permitted to use the park to conduct their business.
- (14) All owners must have in his or her possession a baggy or some other form of equipment to clean up after his or her dog(s). All waste must be placed in a bag and placed in a waste receptacle provided at the park.
- (15) No large dogs (over 25 pounds) will be allowed in the small-dog areas of the dog park. Such areas will be clearly marked.
- (16) No small dogs (under 25 pounds) will be allowed in the large dog areas of the dog parks. Such areas will be clearly marked.
- (17) All dog bites must be reported to Animal Services. If a bite occurs, the dog's owner must exchange his or her name and phone number with the victim of the bite.
- (18) The City of Wichita, the Director of Parks and Recreation, and the ~~Director of Environmental Services~~ Chief of Police or designee reserve the right to close a dog park for maintenance and repair, public safety reasons or for special events.
- (c) It is unlawful for any person to:
  - (1) Enter or remain in a dog park at such time as such park is closed to the public as set out herein or at such time as provided for under the rules and regulations adopted by the ~~Director of Environmental Services~~ Chief of Police or designee and Director of Parks and Recreation.
  - (2) Fail to immediately leash and restrain a dog in the dog park when advised to do so by the ~~Health Officer~~ Animal Control Officer or the Director of Parks and Recreation or his or her designee.
  - (3) Fail to immediately leave the dog park when ordered to do so by a law enforcement officer, ~~Health Officer~~ Animal Control Officer or the Director of Parks and Recreation or his or her designee.
- (d) (1) Owners assume all risks, loss or injury for themselves or their dog(s) associated with or resulting from the use of the park.
- (2) Owners making use of the dog park shall be responsible for injuries caused by their dogs to other persons and dogs. Persons responsible for any injuries or property damage shall hold the City of Wichita harmless for any such damage.
- (e) Enforcement of the above rules and regulations is under the immediate supervision of the ~~Director of Environmental Services~~ Chief of Police or designee and the Director of Parks and Recreation. Violators of dog park rules and regulations may be subject to one or more of the following:

- (1) Removal from the park;
- (2) Suspension of park privileges;
- (3) Issuance of a Uniform Criminal Complaint or Notice to Appear.
- (f) If an owner or individual is found guilty of violating the rules and regulations of a city-owned dog park or any other provisions of this section, such owner or individual shall be guilty of a misdemeanor.
- (g) The Director of Parks and Recreation and the ~~Director of Environmental Services~~ Chief of Police or designee shall promulgate additional regulations as are necessary to address health and safety concerns related to the operation of such parks. A copy of such regulations shall be available for inspection at ~~Animal Services~~ the Animal Shelter and the Office of the Director of Parks and Recreation during regular office hours.

SECTION 32. The originals of Sections 6.04.010; 6.04.020; 6.04.025; 6.04.035; 6.04.036; 6.04.040; 6.04.045; 6.04.047; 6.04.048; 6.04.050; 6.04.052; 6.04.070; 6.04.080; 6.04.090; 6.04.100; 6.04.110; 6.04.140; 6.04.155; 6.04.157; 6.04.158; 6.04.159; 6.04.160; 6.04.170; 6.04.172; 6.04.173; 6.04.175; 6.04.176; 6.04.210; 6.04.215; and 6.04.218 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 33. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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Carl Brewer, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Gary E. Rebenstorf

ORDINANCE NO. 49-010

AN ORDINANCE AMENDING SECTIONS 6.04.010; 6.04.020; 6.04.025; 6.04.035; 6.04.036; 6.04.040; 6.04.045; 6.04.046; 6.04.047; 6.04.048; 6.04.050; 6.04.052; 6.04.070; 6.04.080; 6.04.090; 6.04.100; 6.04.110; 6.04.140; 6.04.155; 6.04.157; 6.04.158; 6.04.159; 6.04.160; 6.04.170; 6.04.172; 6.04.173; 6.04.175; 6.04.176; 6.04.210; 6.04.215 AND 6.04.218 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO ANIMAL CONTROL AND REPEALING THE ORIGINALS OF SAID SECTIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 6.04.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Sec. 6.04.010 Definitions.

As used in this chapter:

(a) *Abandoned cat* means a cat which has returned to the feral state or which does not have a collar.

(b) *Adequate care* means normal care and prudent attention to the needs and welfare of an animal, including that care normally needed to maintain good health of the animal, including clean and dry bedding and resting surfaces, grooming, removal of manure, and:

1. *Adequate food* means wholesome foodstuffs suitable for the animal provided at suitable intervals in a sanitary manner in quantities sufficient to maintain good health of the animal considering its age and condition; and

2. *Adequate health care* means the provision to an animal of all immunizations and preventive care required to maintain good health; space adequate to allow the animal to rest and exercise sufficient to maintain good health; and the provision to each sick, diseased or injured animal of necessary veterinary care or humane death; and

3. *Adequate shelter* means a structurally sound, properly ventilated, sanitary and weatherproof shelter suitable for the animal, considering the condition and age of the animal which provides access to shade from direct sunlight and regress from exposure to inclement weather conditions; and

4. *Adequate water* means a continual access to or access at suitable intervals to a supply of clean, fresh, potable water provided in a sanitary manner suitable for the condition of the animal.

(c) *Adult animal* means an animal that has reached sexual maturity. For the purposes of this title, unless otherwise specified, an animal will be considered to be an adult at five (5) months of age.

(d) *Animals* means all vertebrate and invertebrate animals such as, but not limited to, dogs, cats, bovine cattle, horses and other equines, hogs, goats, rabbits, sheep, chickens, ducks, geese,

turkeys, pigeons, and other fowl or wild animals, reptiles, fish, or birds that have been tamed, domesticated or captivated.

Such term does not include exotic or dangerous wild animals, as defined by Chapter 6.08.

*Animal Control Officer* means any person employed by, contracted with or appointed by the City of Wichita, or any designee of the Chief of Police of the City of Wichita, for the purpose of aiding in the enforcement of this code.

(e) *Animal fighting paraphernalia* means equipment, animals, or commodities designed or capable of use for the purpose of training animals to attack other animals, as in dogfighting or cockfighting, including but not limited to: animal treadmills, drugs for healing animals such as anti-inflammatories, antibiotics or steroids, spurs, equipment used to threaten animals for the purpose of training for aggressive behavior, and/or equipment used to strengthen animal bodies. In determining whether an object is animal fighting paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or person in control of the object concerning its use.
2. Prior convictions, if any, of an owner or person in control of the object under any state law or city ordinance relating to animal fighting, animal cruelty or gambling.
3. The proximity of the object, in time and space, to a direct violation of an animal fighting, animal cruelty or gambling statute or ordinance.
4. The proximity of the object, in time and space, to other objects also susceptible for use as animal fighting paraphernalia.
5. The existence of bloodstains or blood spatters on the object.
6. The manner in which the object is displayed for sale or is described in written material on the subject of animal fighting.
7. The existence and scope of legitimate uses for the object in the community.
8. Expert testimony concerning the object's use.
9. The proximity of the object, in time and space, to dogs showing evidence of wounds or scarring.

f. *Animal shelter* means the facility or facilities authorized to care for animals impounded or held under the authority of the ordinances of the City of Wichita or the State of Kansas.

g. *Attack* means violent or aggressive physical contact with a person or domestic animal or violent or aggressive behavior that confines the movement of a person, including, but not limited to, charging, cornering, chasing, or circling a person.

h. *Bite* means any actual or suspected abrasion, scratch, puncture, tear, bruise or piercing of the skin, caused by any animal, which is actually or suspected of being contaminated or inoculated with the saliva from the animal, directly or indirectly, regardless of the health of the animal causing such bite.

i. *Cat* means any of the small carnivorous mammal varieties of *Felis Catus* which are domesticated. Such term shall not include hybrid breeds of cats which have been bred to a wild animal.

j. *Cattery* means any premises where there is being maintained or harbored a total of five or more cats or more than two unspayed female cats, except veterinary hospitals. This term does not include foster homes operated under the auspices of rescue organizations licensed by the Kansas Department of Animal Health.

k. *City Treasurer* means the duly appointed treasurer of the city or his/her authorized representative.

l. *Commercial animal establishment* means any pet shop, animal day care, grooming shop, auction, riding school, stable, kennel, guard dog service, dog trainer or other business which keeps or maintains animals in stock for retail or wholesale trade or sale.

m. *Dangerous dog* means:

1. Any dog which has exhibited a vicious propensity toward persons or domestic animals and is capable of inflicting serious physical harm or death or damage to property; or
2. Any dog which, without provocation, attacks or bites, or has attacked or bitten a human being or domestic animal. This shall not apply if the victim was committing a willful criminal trespass on the property where the dog was harbored at the time of the attack or bite; or
3. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or
4. Any dog which chases or menaces any person in an aggressive manner, except that a dog shall not be deemed dangerous if the complainant was committing a willful criminal trespass at the time.
5. Any dog that poses a threat to public safety or constitutes a danger to human life or property based upon criteria described in Section 6.04.045, as determined by the Health Officer.

n. *Defecate* means to excrete waste matter from the bowels.

o. *Dog* means any animal which is of the species *Canis Familiaris*. Such term shall not include hybrid breeds of dogs which have been bred to a wild animal.

p. *Dog breeder* means a person who raises or produces dogs or puppies for sale or profit.

It is presumed that a person who advertises the sale of dogs or puppies or a person who owns two or more unaltered female dogs is a dog breeder. Such term shall include persons who are licensed by the State of Kansas as an Animal Dealer, Retailer Breeder, Animal Breeder, Hobby Breeder or Hobby Kennel. Such term shall include a person who owns one or two unaltered pit bulls.

q. *Animal day care* means a commercial establishment that takes temporary possession of an animal, at the request of an owner, to provide safety, comfort and/or socialization of the animal.

r. *Domestic animals* means all animals that have been domesticated, such as, but not limited to, dogs, cats, cattle, horses, swine, goats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons or other fowl.

s. *Domestic animal structure* means all pens, houses or structures where domestic animals are confined, such as, but not limited to: hutches, cotes, lofts, kennels, dog runs, warrens, feed lots, barns or other buildings and enclosures. The term does not apply to perimeter fencing surrounding the property.

t. *Exotic animal* means those animals not normally occurring in North America and animals of any species the majority of whose populations are wild.

u. *Ferret* means a domesticated, small, elongated carnivorous mammal which belongs to the Mustelidae Family (*Mustela putorius furo*).

v. *Foster care, group home or rescue* means a person or organization, whether for profit or non-profit, which provides temporary care for animals from a licensed animal shelter at a private residence. Temporary care is a period of time not to exceed six (6) months. Such term shall include foster, group and rescue homes operated under the auspices of rescue organizations licensed by the Kansas Animal Health Department.

w. *Fowl* means any domesticated or wild bird, including but not limited to: chickens, hens, ducks, geese, pheasants, turkeys, doves, pigeons, parrots, parakeet and exotic birds.

- x. *Garbage* means the putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food for human beings.
- y. *Groomer* means a person or establishment which provides animal grooming services.
- z. *Health Officer* means the Director of the City of Wichita Department of Environmental Services or authorized representative.
- (aa) *Inhumane treatment* means any treatment to any animal which deprives the animal of necessary sustenance, including food, water and protection from the weather; any treatment such as overloading, overworking, tormenting; beating, mutilating, teasing or other abnormal treatment; or causing or allowing the animal to fight with any other animal.
- (bb) *Kennel* means any premises where there is being maintained a total of five or more adult dogs owned by the property resident.
- (cc) *Livestock* means any cow, ox or other bovine, goat, sheep, horse, ratites, donkey, swine, mule or other animal of similar or larger size.
- (dd) *Microchip* means a passive transponder which can be implanted in an animal and which is a component of a radio frequency identification (RFID) system.
- (ee) *Neighbor* means any person residing within two hundred feet (200') from the outermost property line of the property where a domestic animal is owned, kept or harbored.
- (ff) *Owner, keeper or harbinger* means any person who possesses, harbors, keeps, feeds, shelters, maintains, offers refuge or asylum to any animal, or who professes to keeping, owning or harboring of such animal. In addition, any person who signs a receipt as owner, keeper or harbinger for the return of an animal from any shelter or animal holding facility, shall be presumed to be the owner, keeper or harbinger of the animal. A parent or legal guardian shall be deemed to be an owner, keeper or harbinger of animals owned, kept or harbored upon their premises by minor children who are less than eighteen (18) years of age. Such term shall also include any person who exercises control over or is in possession of any such animal.
- (gg) *Person* means any individual, firm, association, joint stock company, syndicate, partnership, corporation, other state franchised business entity such as a professional association, limited liability company, or limited liability partnership, or other organization of any kind.
- (hh) *Picket* means attaching a leash, rope, chain, lead, tether or other similar apparatus or device to the body of an animal and another inanimate or immovable object for the purpose of confining the animal or limiting the movement of the animal.
- (ii) *Pit Bull dog* is defined to mean any and all of the following dogs:
1. The Staffordshire Bull Terrier breed of dogs;
  2. The American Staffordshire Terrier breed of dogs;
  3. The American Pit Bull Terrier breed of dogs;
  4. Dogs which have the appearance and physical characteristics of being predominately of the breeds of dogs known as Staffordshire Bull Terrier, American Pit Bull Terrier or American Staffordshire Terrier.
- A dog which possesses five out of the following eight characteristics shall be considered to be a pit bull:
1. Head is medium length, with a broad skull and very pronounced cheek muscles, a wide, deep muzzle, a well-defined, moderately deep stop, and strong under jaw. Viewed from the front the head is shaped like a broad, blunt wedge.
  2. Eyes are round to almond shaped, are low in the skull and set far apart.
  3. Ears are set high. Un-cropped ears are short and usually held rose or half prick, though some hold them at full prick.



4. Neck is heavy and muscular, attached to strong, muscular shoulders.
5. Body is muscular, with a deep, broad chest, a wide front, deep brisket, well-sprung ribs, and slightly tucked loins.
6. Tail is medium length and set low, thick at the base, tapering to a point.
7. Hindquarters are well muscled, with hocks, set low on the legs.
8. Coat is a single coat, smooth, short and close to the skin. Pit bull puppies have the same characteristics, though in juvenile or adolescent form. Muscles, along with breadth and depth of head and chest may be less developed. Specifically excepted from this definition is any dog with proof, by a written certification from a veterinarian licensed by the State of Kansas, that the dog does not contain in its lineage any American Pit Bull Terrier, American Staffordshire Terrier or Staffordshire Bull Terrier.

(jj) *Premises* means a lot, plot or parcel of land including structures located thereon.

(kk) *Public nuisance* means any repeated acts of an animal that irritates, perturbs or damages rights and privileges common to the public or enjoyment of private property or indirectly injures or threatens the safety of a member of the general public. Such actions include, but are not limited to:

1. Damage to public or private property including, but not limited to: breaking, bruising, tearing up, digging up, crushing or injuring any lawn, garden, flower bed, plant, shrub or tree in any manner;
2. Rips any trash bag or tips any solid waste collection container which spills or scatters trash, debris, refuse or waste.
3. Repeatedly defecates upon any public place or upon premises not owned or controlled by the animal's owner, keeper or harbinger, provided that this definition shall not apply where such waste is immediately removed and properly disposed of by the owner of such animal.
4. Allowing or permitting an animal to be maintained in an unsanitary condition so as to be offensive to sight or smell.
5. Causes a condition which endangers public health or safety.

(ll) *Ratites* means all creatures of the ratite family that are not indigenous to this state, including but not limited to, ostriches, emus and rheas.

(mm) *Refuse* means all putrescible and non-putrescible waste materials (except animal body discharges) such as trash, garbage, dead animals, paper, cardboard, tin cans, grass, wood, metals, salvage or inert materials produced or accumulated in connection with the maintenance of domestic animals.

(nn) *Retail* means any transaction where the animal is sold to the final consumer.

(oo) *Running at large* means any animal, with the exception of a cat, that is not confined within a fenced enclosure or shelter capable of preventing the animal from exiting at will, unless under the control of a person, either by lead, cord, rope or chain; provided that an animal may be considered confined if it is on a leash, rope or chain which is sufficient to keep the animal on the premises where picketed in accordance with section 6.04.040(e)(14). For the purposes of this chapter, an animal shall not be considered running at large when on the owner's property and confined by an operating electronic fencing system when the premises are clearly and prominently marked to show the existence of the electronic fencing system and the animal is equipped with the necessary and operating components of the system required to confine the animal to the owner's property. Further, a dog shall not be considered to be running at large when it is unleashed inside a dog park owned or operated by the City of Wichita.

(pp) *Sale or offer for sale* includes transfers by sale or exchange.

- (qq) *Sanitary* means clean, free from waste and free from infectious influences.
- (rr) *Secure enclosure* means a locked enclosure or structure measuring at least 6 feet in width, 12 feet in length, and 6 feet in height, a secure top attached to the sides which provides proper protection from the elements for the dog, is suitable to prevent the entry of young children, and is designed to prevent the animal from escaping while on the owner's property, which has been inspected and approved by the Health Officer. Such enclosure shall have a concrete or wire floor to prevent the dog from digging out or escaping from the enclosure.
- (ss) *Service animal* means any animal recognized as a qualified service animal pursuant to the Americans with Disability Act of 1990. A qualified service animal is defined as, but not limited: to a dog which has been specially selected, trained and tested to perform a variety of tasks for persons with disabilities. These tasks include, but are not limited to: pulling wheelchairs, lending balance support, picking up dropped objects or providing assistance in, or to avoid, a medical crisis or to otherwise mitigate the effects of a disability. The presence of a dog for comfort, protection or personal defense does not qualify a dog as being trained to mitigate an individual's disability and, therefore, does not qualify the dog as a service dog.
- (tt) *Stockyard* means a public terminal stockyard posted by the packers and stockyards divisions of the United States Department of Agriculture.
- (uu) *Unaltered* means an animal which has not been surgically sterilized.
- (vv) *Veterinarian* means a doctor of veterinary medicine licensed by the State of Kansas.
- (ww) *Veterinarian hospitals* mean a domestic animal hospital operated by a doctor of veterinary medicine, licensed by the State.
- (xx) *Vicious propensity* means a known tendency or disposition to approach any individual or domestic animal in an attitude of attack when there is no provocation.
- (yy) *Waste* or *wastes* means manure or the bodily discharge of all domestic animals, spilled feed or unconsumed feed and liquid cleaning wastes, including suspended solids resulting from cleaning operations.
- (zz) *Wild animal* means any species that has established breeding populations currently within North America, which is self sufficient in the natural environment, and the majority of whose populations are not domesticated.

SECTION 2. Section 6.04.020 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

Sec. 6.04.020. Responsibilities of the Health Officer Enforcement of this title.

(a) The Health Officer Wichita Police Department and members of the City of Wichita's Animal Control and all designees of Chief of Police of the City of Wichita shall be responsible for the enforcement of this title and is hereby authorized to make investigations and to serve notices and orders as necessary for enforcement of the provisions of this title, to pick up animals on public or private property, and to arrange and pay for confinement of such animals at an animal shelter in accordance with K.S.A. 47-1701, et seq., and amendments thereto, and to operate an animal shelter to aid the department's animal control functions, including charging the

owner of any animal confined for the care thereof, and to seek reimbursement from the owner of any animal confined, whether the confinement is at the animal shelter operated by the department or by a third party. Such authority shall include, subject to budgetary control, authorization for formalization of an agreement with such animal shelter.

(b) The Health Officer Animal Control Officers and all members of the Wichita Police Department shall have the authority to sign complaints and serve notices to appear before the Municipal Court upon any person when the Health Officer Animal Control Officer or Police Officer has probable cause to believe such person has or is violating a section of this Code. Such officer shall have the authority to issue, suspend or revoke licenses and permits as provided for by this title.

(c) In addition to fees provided for in this title, the Director of the Wichita Department of Environmental Services, Chief of Police of the City of Wichita or designee is authorized to establish a schedule of user or service fees and collect such fees for services performed, including but not limited to:

1. Animal shelter boarding and animal redemption;
2. Shelter services provided to other jurisdictions;
3. Animal care and control items sold at the Wichita Animal Shelter;
4. Adoption fees for the adoption of animals from the Wichita Animal Shelter.
5. Research and copying of documents not subject to the Kansas Open Records Act requests;
6. Inspection services provided to other jurisdictions.
7. Enter into interlocal agreements with other jurisdictions to provide Animal Control services.

(d) The Director of Environmental Services Chief of Police of the City of Wichita or designee is authorized to adjust fees during instances of moratoriums, special events or special adoption programs."

SECTION 3. Section 6.04.025 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

Sec. 6.04.025. Trapping of abandoned cats by Health Officer.

(a) Abandoned cats located within the corporate limits of the city are declared a nuisance and menace to the public health which is to be abated by the Health Officer. Wichita Police Department.

(b) A cat that has reverted to a feral state or has no collar is presumed to be an abandoned cat. Such cat may be confined by a person on whose property such cat strays for pick-up by the Health Officer City of Wichita's Animal Control, or be trapped by the health officer an Animal Control Officer.

(c) The Health Officer Animal Control Officers may utilize humane-type cage traps to apprehend any abandoned cat with such humane trap being placed by the health officer Animal Control Officer on public property or private property with the consent of the owner.

(d) The Health Officer shall Animal Control Officer shall transport cats that have been trapped, picked up, confined or relinquished to the animal shelter with such cat being impounded as provided by K.S.A. 47-1701 et seq., as amended, unless sooner redeemed by an owner upon payment of a service charge and boarding fee to the city. Identification information, if available on a trapped cat, shall be utilized by the Health Officer Animal Control Officer or animal shelter to inform such owner that his cat has been impounded.

SECTION 4. Section 6.04.035 of the Code of the City of Wichita, Kansas is hereby

amended to read as follows:

Sec. 6.04.035. Cruelty to animals.

(a) It is unlawful for any person to commit the crime of cruelty to animals. Cruelty to animals is:

1. Intentionally causing any physical injury, other than the following acts, described in K.S.A. 21-4310(a)(10) and amendments thereto: by intentionally and maliciously killing, injuring, maiming, torturing, burning or mutilating any animal;
2. Recklessly causing physical injury to any animal;
3. Intentionally abandoning or leaving any animal in any place without making provisions for its proper care;
4. Having physical custody of any animal and intentionally failing to provide adequate care, such as food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal, or to carry any animal in or upon any vehicle in a cruel or inhumane manner. Any animal kept outside shall be provided with a structurally sound, weatherproof enclosure, large enough to accommodate the animal;
5. For any person, by any means, to make accessible to any animal, with the intent to cause harm, any substance which has in any manner been treated or prepared with a harmful or poisonous substance, except that this section shall not prohibit the use of poisonous substances for the control of vermin of significance to the public health.
6. Every operator of a motor vehicle or other self-propelled vehicle upon the streets and ways of the City, except emergency vehicles, shall immediately, upon injuring, striking, maiming or running down any animal, notify the police department (911) of the location, and the police department will notify such agency as may be providing injury services;
7. For any person to have, keep or harbor any animal which is infected with any dangerous or incurable and/or painfully crippling condition except as hereinafter provided. A Municipal Court Judge may order a person convicted under this section to turn the animal involved over to the Environmental Services Department Animal Shelter. All such animals taken by the Environmental Services Department Animal Control may be destroyed humanely as soon thereafter as is conveniently possible. This section shall not be construed to include veterinary hospitals or animals under active veterinary care;
8. Intentionally using a wire, pole, stick, rope or any other object to cause any equine, bovine or swine to lose its balance or fall, for the purpose of sport or entertainment.
9. It is unlawful for any person to leave an animal in a standing or parked vehicle under conditions constituting an imminent threat to the safety of the animal. The Health Officer Animal Control Officer may remove and impound an animal left under what reasonably appears to be such conditions. Removal and impoundment of an animal shall not limit the Health Officer's Animal Control Officer's ability to pursue charges or animal cruelty in Municipal Court.
10. It is unlawful for any person to subject any animal to inhumane treatment, as defined by Section 6.04.010 of this Code.

(b) The provisions of this section shall not apply to:

1. Normal or accepted veterinary practices;
2. Bona fide experiments carried on by commonly recognized research facilities;

3. Rodeo practices as described in the Professional Rodeo Cowboys Association Rules Governing the Care and Treatment of Livestock in PRCA Sanctioned Rodeos;
  4. The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound.
  5. With respect to livestock, normal or accepted practices of animal husbandry, including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;
  6. The killing or injury of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, livestock or property;
  7. An animal control officer Animal Control Officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;
  8. Laying an equine down for medical or identification purposes;
  9. Normal or accepted practices of pest control, as defined in K.S.A. 2-2438a and amendments thereto; or
  10. Accepted practices of animal husbandry pursuant to regulations promulgated by the United States Department of Agriculture for domestic pet animals under the Animal Welfare Act, and amendments thereto.
- (c) As used in this section,
1. *equine* means a horse, pony, mule, jenny, donkey, or hinny.
  2. *bovine* means a cow, calf, bull or steer.
  3. *swine* means a pig, shoat, piglet, boar, barrow, gilt or sow.
- (d) Cruelty to animals as described in this section is a misdemeanor punishable by a fine or not more than \$2,500.00 and/or imprisonment of not more than 12 months, or any combination of such fine and imprisonment.

SECTION 5. Section 6.04.036 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

Sec. 6.04.036. Cruelty complaint--Municipal court hearing.

(a) The Health Officer An Animal Control Officer or the representative of a duly incorporated humane society may, if a report has been made which shows evidence of cruelty or inhumane treatment of an animal against an individual before or after the individual has been convicted of such violation, sign an affidavit petitioning the Municipal Court Judge to immediately take custody and control of such animal if it appears to the Health Officer Animal Control Officer or the representative of the duly incorporated humane society that it would be in the best interest of such animal to have the Municipal Court seize such animal.

(b) The Municipal Court Judge, upon receiving such affidavit and petition, shall set the matter for hearing within five business days from the date that the petition and affidavit are filed. If it

appears from the affidavit that there is an imminent threat to the life of the animal, then the Municipal Court may set the hearing as soon as practical. The Municipal Court shall direct notice of the violation be served on the owner or harbinger of such animal by serving such person with a summons to appear and a copy of the affidavit filed with the court. This summons and affidavit shall be served in the same manner as is required for serving a Notice to Appear under K.S.A. 12-4207.

(c) The Municipal Court Judge, after a hearing has been held, may order that an animal be seized and held in the animal shelter of the City of Wichita, or placed in the custody of a duly incorporated humane society if the following findings are made:

1. The person summoned to appear is the owner or harbinger of the animal in question;
2. That there is probable cause to believe that a violation of any provision of Section 6.04.035 has occurred or is occurring; and
3. Based upon that violation, it appears that it would be in the best interest of the animal, to remove that animal from the control and custody of the owner or harbinger.

(d) If the Municipal Court Judge orders that such animal shall be seized and brought into custody, then the Health Officer Animal Control Officer or a representative of a duly incorporated humane society shall take such animal into custody and shall inspect such animal, care for or treat such animal or place such animal under the care of a licensed veterinarian for treatment, boarding or other care. If the Health Officer Supervisor of Animal Control determines, based on information from his or her staff, an officer of a humane society, or a licensed veterinarian, that the animal is diseased or disabled beyond recovery for any useful purpose, then such animal may be destroyed humanely as soon thereafter as is conveniently possible, subject to the right of appeal stated below in subsection (i). The City of Wichita shall not be responsible for any costs that are incurred by an incorporated humane society as to the care of an animal placed in the custody of a humane society or as to treatment of an animal under the custody of a humane society received from a licensed veterinarian.

(e) If the owner or harbinger of such an animal is convicted of violating any provision of Section 6.04.035 of this code and if the Municipal Court Judge finds that such animal would in the future be subjected to treatment or actions by the owner or harbinger which violates any provision of Section 6.04.035, such animal shall not be returned to or remain with such person. Such animal may be turned over to the Health Officer animal shelter, humane society or licensed veterinarian for sale or other disposition.

(f) Expenses incurred for the care, treatment or boarding of any animal taken into custody pursuant to subsection (d) pending prosecution of the owner or harbinger of such animal for cruelty to animals shall be assessed to the owner or harbinger as a cost of the case if the owner or harbinger is adjudicated guilty of such crime.

(g) If the Health Officer an Animal Control Officer has taken possession of the animal, the Health Officer Animal Control Officer may petition the Municipal Court to be allowed to place the animal for adoption or euthanize the animal after five (5) business days following notification to the owner or harbinger of such animal, unless the owner or harbinger files a renewable cash or performance bond with the Clerk of the Municipal Court where the animal is being held, in an amount equal to not less than the cost of care and treatment of the animal for thirty (30) days. If the animal remains in the custody of the Health Officer animal shelter for a period exceeding thirty days, after written notice to the owner or harbinger, the Health Officer Supervisor of Animal Control or designee may request the Municipal Court Judge to increase the amount of the bond to cover the costs of care for the animal.

- (h) If the owner or harbinger of such animal is adjudicated not guilty or if the Municipal Court Judge, after an adjudication of guilt is made, finds that such animal should be returned, such person may redeem such animal within seventy-two hours. If such animal is not redeemed within seventy-two hours, then the entity operating the animal shelter caring for the animal shall have ownership of such animal and shall determine the disposition of such animal. Any proceeds derived from such sale or disposition shall be paid directly to the treasurer of the entity operating the animal shelter, and no part of such proceeds shall accrue to any individual.
- (i) An order issued by the Municipal Court Judge under this section may be appealed to the district court pursuant to the provisions contained in K.S.A. 60-2101(d) and amendments thereto."

SECTION 6. Section 6.04.040 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.040. Control and protection of animals in general.

(a) Any owner, keeper or harbinger of any animal, other than cats, found running at large within the corporate limits of the city shall be deemed guilty of a misdemeanor. Knowledge or intention on the part of the owner, keeper or harbinger shall not be elements of this offense. The Health Officer An Animal Control Officer may seize, impound and cause to be destroyed any such animal, including those animals not within the definitions of the Kansas Pet Animal Act, using the procedures set out at K.S.A. 47-1710. The Health Officer Supervisor of Animal Control may return the animal to its rightful owner, keeper or harbinger upon request and may require the payment of a service charge and a boarding fee for days spent in confinement at the shelter prior to return of the animal. If any animal impounded for any reason is determined by the Health Officer Supervisor of Animal Control to require confinement separate from other like animals in order to protect the health and well being of that animal, staff, the public, or other animals being housed at the animal holding facility due to any aggressive behavior and/or any disease or medical conditions, the boarding fee for such animal shall be twice the normal boarding fee established by the animal shelter. Any person who is convicted of the charge of animal running at large shall be punished as set forth below:

1. Upon a first conviction, a fine of not less than \$50.00 nor more than \$1,000.00 shall be assessed.
2. Upon a second conviction a fine of not less than \$100.00 nor more than \$1,000.00 shall be assessed.
3. Upon a third or subsequent conviction, a fine of not less than \$200.00 nor more than \$1,000.00 shall be assessed and the owner must appear in Municipal Court.

(b) In addition to the penalties set forth in paragraph (a), the owner, keeper or harbinger of any unaltered dog that has been impounded for running at-large shall be required to:

1. Have an identification microchip implanted in the dog traceable to the current owner, and registered with the City of Wichita, and
2. Have the dog surgically sterilized by a licensed veterinarian within thirty days of redemption of said dog, at his or her own expense. It shall be a violation of this ordinance to fail to have the dog surgically sterilized, or provide proof from a licensed veterinarian that said dog has previously been surgically sterilized, or has been surgically sterilized and micro-chipped within thirty days after redemption of said dog as indicated in this ordinance, or

3. The owner, keeper or harbinger may maintain the aforementioned dog intact by paying an additional unaltered animal fee, the amount of which shall be established by the Health Officer Chief of Police or designee to redeem such dog from the Animal Shelter. Such dog may be maintained intact provided that the dog is not found to be running at large on any subsequent occurrence within the dog's lifetime.

4. For any dog required to be surgically sterilized, the Health Officer Supervisor of Animal Control shall collect payment for and issue a spay/neuter voucher at the time of the animal's redemption, and the owner, keeper or harbinger shall provide documentation of the sterilization upon completion. Such voucher shall remain valid for thirty (30) days. Any owner, keeper or harbinger failing to provide documentation of the sterilization procedure within thirty days of impoundment shall be deemed guilty of a misdemeanor. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or micro chipping of the dog. Upon the renewal of the license, the amount will be changed to reflect the altering and micro chipping of the dog.

(c) Upon the second occurrence of any intact dog impounded by the Health Officer Animal Control for running at large, the owner, keeper or harbinger of such dog shall be required to have the animal surgically sterilized by a licensed veterinarian within thirty days of redemption of said dog at his or her own expense. For any animal required to be surgically sterilized, the Health Officer Supervisor of Animal Control shall collect payment for and issue a spay/neuter voucher at the time of the animal's redemption, and the owner, keeper or harbinger shall provide documentation of the sterilization upon completion. Any owner, keeper or harbinger failing to provide documentation of the sterilization procedure within thirty days of impoundment shall be deemed guilty of a misdemeanor.

(d) Animals which are kept on the premises of any pet store shall not be allowed, by the storeowner or any employee, to run at large inside the store or on the external premises of the pet store during business hours, and no person shall allow any animal under their care or control to run at large on the premises of any store during business hours. This provision shall not apply to animals participating in supervised training classes within an enclosed area of the store.

(e) It is unlawful for any person to:

1. Kill any squirrel or songbird within the corporate limits of the city; provided, that it shall be permissible for the Health Officer Animal Control Officers to kill squirrels, skunks, birds, or other animals that have become so numerous as to cause destruction or nuisance to property or in the event of disease occurring among such squirrels, skunks, birds, or other animals that may be considered contagious to human beings;

2. Interfere with or molest an animal used by the police or fire department of the city or other governmental agency or department in the performance of its lawful functions and duties or interfere with the handler of such animal in such a way that the handler is deprived of or inhibited in his control of such animal;

3. Own, maintain, or have in his or her possession animal fighting paraphernalia;

4. Own, keep or harbor on one's premises any animal, by a person convicted of animal fighting, pursuant to K.S.A. 21-4315 or convicted of cruelty to animals as defined by Section 6.04.035 of the Code of the City of Wichita or K.S.A. 21-4310 and amendments thereto.

5. Own, keep or harbor any animal, which, by loud, frequent, excessive or habitual barking, howling, yelping or other noise or action, unreasonably interferes with the use or enjoyment of property of any person of reasonable sensibilities residing in or occupying the area. To effect legal relief, persons so affected directly may sign a complaint at the Department of



Environmental Services Animal Shelter or contact the Wichita Police Department to file a report regarding such nuisance.

6. Allow any unsprayed female dog in season to be in an area where there is access by an unconfined male dog;

7. Allow an unconfined male dog in an area where there is access to any unsprayed female dog in season;

8. Own, keep or harbor a dog over five months of age within the corporate limits of the city without such dog having a current vaccination against rabies performed by a veterinarian, and the owner thereof securing an annual license for such dog issued by the City Treasurer. The Director of Environmental Services The Chief of Police or designee shall have the authority to establish appropriate licensing fees for such animals.

9. Own, keep or harbor a cat over five months of age within the corporate limits of the city without such cat having a current vaccination against rabies performed by a veterinarian licensed by the State of Kansas.

10. Sell or offer for sale, barter or give away any living baby chicks, rabbits, ducklings, or other fowl except pigeons, under two months of age or to sell, offer for sale, barter, give away or display animals or fowl as specified in this subsection which have been dyed, colored or otherwise treated so as to impart to them an artificial or unnatural color; provided, however, that this section shall not be construed to prohibit the sale of animals or fowl, as specified in this subsection, in proper brooder facilities by hatchers or persons engaged in the raising and selling of such animals and fowls for recognized animal husbandry or commercial purposes;

11. Own, keep, or harbor, sell or offer for sale, barter or give away any animal whose possession is prohibited by federal or state law; or any exotic animal as defined in by this title. This section shall not apply to: tropical or other fishes; birds, except those prohibited by federal or state law; animals such as gerbils, rats, mice, hamsters, guinea pigs, and ferrets; small mammals raised for harvesting of fur salable into an existing market, such as chinchillas, nutria and mink; nonpoisonous amphibians and reptiles, not including pythons, anacondas, boa constrictors, monitor lizards, iguanas, alligators, caiman, crocodiles and turtles. This section shall not apply to exhibitions authorized by and conducted in accordance with Chapter 6.08.

12. Continuously picket a dog for more than one continuous hour, except that picketing of the same dog may resume after a hiatus of three continuous hours. A dog may not be picketed for a total time period exceeding three hours, in any twenty-four-hour period.

For the purpose of picketing a dog, a chain, leash, rope, or tether shall be at least 10 feet in length.

(i) A chain, leash, rope, collaring device, tether, or any assembly or attachments thereto used to picket a dog shall not weigh more than one-eighth (1/8) of the animal's body weight, or due to weight, inhibit the free movement of the animal within the area picketed.

(ii) Dogs shall be picketed in such a manner as to prevent injury, strangulation, or entanglement on fences, trees, or other man made or natural obstacles;

(iii) It is unlawful to attach chains or other tether restraint implements directly to a dog without the proper use of a collar, harness, or other device designed for that purpose and made from a material that prevents injury to the animal.

13. Permit or allow any animal to be a public nuisance.

14. Own, keep or harbor more animals than is permitted by the requirements of this title.

(f) Health Officers Animal Control Officers and other law enforcement officers may issue the owner or owners of animals creating a public nuisance, as defined in this title, a citation to

appear in municipal court to answer the offense charged. To effect legal relief, persons affected directly may sign a complaint at the Department of Environmental Services Animal Shelter or contact the Wichita Police Department to file a report regarding such nuisance.

SECTION 7. Section 6.04.045 of Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.045. Dangerous dog--Determination--Notice and hearing--Confinement or destruction.

a) The Health Officer Supervisor of Animal Control may declare a dog to be dangerous based on:

1. The nature of any attack committed or wound inflicted by the animal;
2. The past history and seriousness of any attacks or wounds inflicted by the animal;
3. The potential propensity of the animal to inflict wounds or engage in aggressive or menacing behavior in the future;
4. The conditions under which the animal is kept and maintained which could contribute to, encourage, or facilitate aggressive behavior, such as, but not limited to, allowing the animal to run at large, tethering in excess of legal limits as defined in this chapter, physical property conditions, presence of young children, the elderly, or infirm within or residing near the home, any past violations of this chapter, and/or failing to provide proper care, food, shelter, or water.

If the Health Officer Supervisor of Animal Control determines that the animal is dangerous, he or she will determine an appropriate disposition based on the known facts and consistent with the provisions of this chapter. The Health Officer Supervisor of Animal Control may impound the dog and shall notify the owner of such determination by personal service, residential service at the person's usual place of abode by leaving a copy of the notice with some person of suitable age and discretion residing therein, or by certified mail addressed to the owner's last known address, or addressed to the location where the dog is maintained. Service by certified mail, shall request return receipt, with instructions to the delivering postal employee to show to whom delivered, the date of delivery, and address where delivered. Service of process by certified mail shall be considered obtained upon the delivery of the certified mail envelope. If the certified mail envelope is returned with an endorsement showing refusal of delivery, the Health Officer Supervisor of Animal Control or designee shall send a copy of the notice to the defendant by ordinary, first class mail. This first class mailing shall be evidenced by a certificate of mailing. Service shall be considered obtained upon the mailing of this additional notice by first class mail. The owner of a dog declared dangerous may request an administrative review of the determination by filing a written request with the Health Officer Supervisor of Animal Control within ten days of receipt of such notification.

(b) The Health Officer Chief of Police or designee will conduct a hearing within ten days of receipt of the owner's request. At such hearing, testimony may be offered by the owner of the dog, the Health Officer Animal Control Officers or staff of Animal Control, victims of any bite or attack, neighbors or other affected persons, and veterinarians concerning the vicious propensity of the dog. In making a determination, the Health Officer Chief of Police or designee shall consider the factors listed in subsections (1) through (4) above. It shall be an affirmative defense that at the time of a bite, attack, or threatening behavior:

1. The dog was actively being used by a law enforcement official for legitimate law enforcement purposes; or

2. The threat, injury, or damage was sustained by a person:
  - (i) Who was committing, at the time, a criminal trespass or other tort upon the premises lawfully occupied by the owner of the dog; or
  - (ii) Who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused or assaulted the dog; or
  - (iii) Who was committing or attempting to commit a crime; or
3. The dog was responding to pain or injury.

If the Health Officer Chief of Police or designee determines that the dog is dangerous, he or she shall determine an appropriate disposition based on the facts determined at the hearing and the provisions of this chapter, and will notify the owner in writing of the outcome of the hearing within five business days. The owner may appeal the hearing outcome as provided for in Section 6.04.210. During the appeal process, the owner, keeper or harbinger of such animal shall be responsible for the cost of keeping such animal in the Animal Shelter. The owner, keeper or harbinger of such animal can file a renewable, non-refundable, cash or performance bond with the Animal Shelter where the animal is being held, within the 10 day appeal period, in an amount equal the cost of care and treatment of the animal for thirty (30) days. Said cash or performance bond shall be renewable for an additional thirty (30) days and each successive thirty (30) days the animal is held by Animal Services during the pendency of the appeal. Payment of said renewal shall be within 5 days of the running of the previous thirty (30) day period. If said cash or performance bond, or its renewal, is not tendered to the Animal Shelter within the time specified above, then the Health Officer Animal Control shall have immediate ownership of such animal and the Supervisor of Animal Control shall determine the disposition of such animal. Absent such appeal, the Health Officer Supervisor of Animal Control or designee may pick up and cause the animal to be destroyed, or in lieu of such destruction he or she may permit the confinement of the animal in a manner and location that he or she deems appropriate or as provided in Section 6.04.046

SECTION 8. Section 6.04.046 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.046. Dangerous dog--Failure to confine--Destruction and defenses.

- (a) It is unlawful for an owner, keeper or harbinger of a dangerous dog to permit the dog to be outside an approved or secure enclosure unless the dog is restrained by a substantial chain or leash and under physical restraint by a responsible person who is eighteen years of age or older and possesses sufficient strength for physical control of the animal for the purpose of transportation to and from a veterinarian for medical treatment. In such event, the dangerous dog shall be securely muzzled and restrained with a chain or leash not exceeding four (4) feet in length, and shall be under the direct control and supervision of the owner, keeper or harbinger of the dangerous dog. The muzzle shall be made and used in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.
- (b) Secure or approved enclosures required under this section must be approved by the Health Officer Supervisor of Animal Control or designee and be adequately lighted and kept in a clean and sanitary condition.

(c) The owner, keeper or harbinger shall allow the Health Officer access to the property where the dangerous animal is being harbored to facilitate inspections and insure compliance for the duration of the life of the animal.

(d) The owner, keeper or harbinger of any dog that has been determined to be dangerous shall be required to have the animal surgically sterilized by a licensed veterinarian within thirty days of the dangerous animal determination, at his or her own expense. For any animal required to be surgically sterilized, the Health Officer Supervisor of Animal Control or designee shall collect payment for and issue a spay/neuter voucher at the time of the animal's redemption, and the owner, keeper or harbinger shall provide documentation of the sterilization upon completion. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or micro chipping of the dog. Upon the renewal of the license, the amount will be changed to reflect the altering and micro chipping of the dog.

Any owner, keeper or harbinger failing to provide documentation of the sterilization procedure as required by this section shall be deemed guilty of a misdemeanor.

(e) The owner, keeper or harbinger of any dog that has been determined to be dangerous shall be required to have a microchip, traceable to the dangerous dog and the current owner, inserted into the dog and copies of documentation of said procedure available for review by the Health Officer. Supervisor of Animal Control. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or micro chipping of the dog. Upon the renewal of the license, the amount will be changed to reflect the altering and micro chipping of the dog.

Any owner, keeper or harbinger of a dangerous dog who fails to comply with this provision shall be deemed guilty of a misdemeanor.

(f) It is unlawful for anyone having prior felony convictions defined in articles 34, 35, 36, and 43 of Chapter 21, and article 41 of Chapter 65 of the Kansas Statutes Annotated to possess, harbor, own or reside on any premises with a dangerous dog.

(g) It shall be unlawful for any person to:

(1) harbor, keep or maintain a dangerous dog on property not owned by the person without the written consent of the land owner; or

(2) sell, barter or give away to another person a dog which has been deemed dangerous; or

(3) own, keep or harbor more than two dogs which have been declared dangerous by this title.

(h) Should a previously determined dangerous dog be found running at large in violation of this section attack or inflict injury upon any person, the judge of the Municipal Court shall, in addition to any other penalty provided in Section 6.04.190, order the dog destroyed. Provided, however, the judge of the Municipal Court may, at his or her discretion, consider whether the attack or injury was sustained by a person who, at the time, was committing a criminal trespass or other tort upon the premises of the owner of the dog, or was tormenting, abusing, or assaulting the dog, or has, in the past, been observed or reported to have tormented, aroused, or assaulted the dog or was committing or attempting to commit a crime.

SECTION 9. Section 6.04.047 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.047 Signs required.

Upon determination by the Health Officer Supervisor of Animal Control, the owner of a dangerous dog shall display in a prominent place at the entrance to his or her premises a clearly visible warning sign indicating there is a dangerous dog on the premises. A similar sign is required to be posted on the secure enclosure in which the animal is harbored.

SECTION 10. Section 6.04.048 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.048. Registration and insurance.

(a) The owner, keeper or person harboring a dangerous dog shall annually register the dangerous dog with the Health Officer City of Wichita on such forms designated by the Health Officer Chief of Police or designee, and shall have a microchip, traceable to the current owner of the dog, inserted into the dog. The owner, keeper or harboring shall complete an application and shall pay a \$100.00 annual registration fee to the City of Wichita and shall pay all costs associated with the microchip procedure. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or micro chipping of the dog. Upon the renewal of the license, the amount will be changed to reflect the altering and micro chipping of the dog.

The owner, keeper or person harboring a dangerous dog shall notify the Health Officer City of Wichita in writing a minimum of seven days prior to any change in the address of the owner, keeper or person harboring the dog or the location of the dangerous dog. Any owner, keeper or harboring of a dangerous dog who fails to comply with this provision shall be deemed guilty of a misdemeanor.

(b) The owner, keeper or person harboring a dangerous dog required to be registered under this Section may be required to maintain liability insurance in the amount of one hundred thousand dollars for each such dog against the potential injury or damage liabilities and hazards associated with the ownership or possession of such dog. The owner or person harboring a dangerous dog shall file with the Health Officer City of Wichita a certificate of insurance reflecting the required minimum insurance. Any owner, keeper or harboring of a dangerous dog who fails to comply with this provision shall be deemed guilty of a misdemeanor.

SECTION 11. Section 6.04.050 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.050 Interference with the duty of Health Officer an Animal Control Officer.

It is unlawful for any person to:

(a) Refuse to identify himself or herself and provide verification of his or her correct name, address, date of birth and any other information reasonably necessary to correctly identify such person when asked to do so by the Health Officer Animal Control Officer, when the Health Officer Animal Control Officer has probable cause to believe that this person has violated a section of this chapter;

- (b) Interfere with, molest, injure or prevent the Health Officer Animal Control Officer in the lawful discharge of his or her duties as herein prescribed, including interference when removing animals from private property and/or when investigating animal concerns.
- (c) Provide false or misleading information to the Health Officer Animal Control Officer when retrieving or claiming an animal from the shelter.
- (d) Knowingly provide false or misleading information to the Health Officer Animal Control Officer during the course of the Health Officer's Animal Control Officer's investigation into possible violations of this chapter or while performing the lawful discharge of the officer's duties.

SECTION 12. Section 6.04.052 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.052. Restrictions on the ownership of Pit Bulls.

- (a) All adult pit bulls within the City of Wichita are required to have an identification microchip implanted in the dog traceable to the current owner and registered with the City of Wichita. Such microchip information shall be included in the dog's annual license application with the City of Wichita. The owner, keeper or harborer shall pay all costs associated with the microchip procedure.
- (b) It shall be unlawful for any person to own, keep or harbor an adult unaltered pit bull, unless such person is licensed as a dog breeder pursuant to Section 6.04.155. No licensed dog breeder shall own, keep or harbor more than two unaltered adult pit bulls. Such dogs must be micro-chipped as required by this title. The provisions of this section shall not apply to any unaltered pit bull which was located within the City of Wichita as of July 1, 2009, and such dog was being utilized as: (1) a service dog to accommodate an individual with a disability recognized by the Americans with Disabilities Act, or (2) a show dog which has been certified to have been shown in a qualified show by December 31, 2009. No person shall own more than two such service dogs or show dogs, unless otherwise exempted in this title. Any person who owns such a show dog shall be required by March 31, 2010 to obtain a waiver from the Health Officer Chief of Police or designee in order to retain the unaltered status of the pit bull. Such waiver shall be renewed on an annual basis under the guidelines specified by the Health Officer Chief of Police or designee and shall cost the sum of \$50.00 per waiver per year. Waivers can be revoked by the Health Officer Chief of Police or designee pursuant to the provisions of 6.04.157. Any such service dog or show dog must be micro-chipped as required by this title. Sterilization of a pit bull described in this section, shall not be required upon certification, presented to the Director of Environmental Services Supervisor of Animal Control, by a veterinarian licensed by the state of Kansas, that such sterilization would be injurious to such dog due to its health or age.
- (c) It shall be unlawful for any person to own, keep or harbor more than two pit bulls unless otherwise exempted in this title.
- (d) It shall be unlawful for more than two adult pit bulls, to be owned, kept, or harbored on the same premises or dwelling.
- (e) Any person who owns a pit bull, as of July 1, 2009, shall have six months thereafter, to microchip and surgically sterilize such animal or apply for a breeder's license pursuant to this title, unless exempted under section (b) above. Sterilization of the pit bull shall not be required upon certification, presented to the Director of Environmental Services Supervisor of Animal

Control, by a veterinarian licensed by the State of Kansas that such sterilization would be injurious to such dog due to its health or age.

(f) Any person who had a current animal maintenance permit or variance for three or more pit bulls, at the time of passage of the ordinance shall be permitted to keep, but not replace such dogs until their number equals no more than two dogs. Such dogs must be registered, micro-chipped and surgically sterilized in accordance with this title, unless otherwise exempted within this title.

(g) Any person aggrieved by the determination of the Health Officer Chief of Police or designee that a dog is a pit bull as defined by Section 6.04.010 of this title, shall have the right to appeal such determination as set forth in Section 6.04.158.

(h) The provisions of this section shall not apply to dogs which are temporarily located within the City of Wichita for participation in dog shows which are sanctioned by the American Kennel Club, United Kennel Club, the Wichita Kennel Club or the American Dog Breeders Association., or unless otherwise recognized by the Health Officer Chief of Police or designee.

(i) Any individual who fails to comply with the requirements of this section shall be guilty of a misdemeanor.

SECTION 13. Section 6.04.070 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.070. Procedures on retention, observation and disposition of animals which have bitten persons or other animals.

- (a) The owner of any animal, which has been determined by the Health Officer Supervisor of Animal Control to have bitten a person or another animal shall confine the animal as directed by the Health Officer Supervisor of Animal Control or surrender such animal to the Health Officer Animal Shelter for rabies observation. The owner, keeper or harbinger shall be responsible for the payment of any cost of such confinement and any additional fees relative to the confinement or maintenance of the animal. Any costs and/or additional fees assessed by the Health Officer Chief of Police or designee shall be paid by the owner, keeper or harbinger prior to the dog's release.

SECTION 14. Section 6.04.080 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.080 Known rabid animal.

In a case of rabies exposure to domestic animals, such as, but not limited to dogs or cats, when such animal is known to be rabid or has been bitten by a rabid animal or an animal that can be assumed to be rabid using Kansas State Rabies Guidelines, the Health Officer Supervisor of Animal Control may order such animal to be destroyed or confined for a period and in a manner recommended by the Compendium of Animal Rabies Control published by the National Association of State Public Health Veterinarians in a veterinary hospital, animal-care facility, or as specified by the Health Officer Supervisor of Animal Control. In the case of domestic animals unvaccinated against rabies, the Health Officer Supervisor of Animal Control may require post-exposure prophylaxis and one hundred eighty-day confinement of such animals that

have been exposed to a known rabid animal at a veterinary hospital, an animal-care facility, or as specified by the Health Officer Supervisor of Animal Control and recommended by the Compendium of Animal Rabies Control published by the National Association of State Public Health Veterinarians. The owner shall be responsible for the payment of any cost of such confinement and any additional fees relative to the confinement or maintenance of the animal, and including fees for post exposure prophylaxis and for any required testing done on the animal. The owner of any animal that is required to be tested for rabies, or any person that requests any animal to be tested, shall be responsible for paying all costs associated with the testing.

SECTION 15. Section 6.04.090 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.090 Failure to confine biting animals.

It is unlawful for any person to fail to confine, fail to keep confined, or permit to run at large, any animal which has been ordered confined by the Health Officer Supervisor of Animal Control for rabies observation or quarantine.

SECTION 16. Section 6.04.100 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.100 Injured animal.

The owner of an injured animal taken to a veterinarian by the Health Officer or his designated agent Supervisor of Animal Control or his or her designee is responsible for the payment of charges for veterinarian services related thereto. The owner shall reimburse the Health Officer Animal Shelter for all expenditures the Health Officer Supervisor of Animal Control may cause to be paid may pay for veterinary services rendered to the owner's animal under this section.

SECTION 17. Section 6.04.110 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.110. Procedure on registration, vaccination certificate and issuance of a license to keep a dog; vaccination requirements for cats and ferrets.

(a) The owner or harbinger of a dog over five months old is required to annually register such dog with the City Treasurer, and to make application for and obtain a license to keep such dog as herein provided. Said license shall be valid for a period not to exceed twelve months. So long as animals are not maintained for a period exceeding one hundred and eighty days, animals maintained in foster care or with a rescue organization, as defined in this title, shall not be required to be licensed until adopted or permanently placed. All dogs placed in foster care or with a rescue organization must be properly vaccinated within seven days of being placed in such foster care or rescue organization.

(b) The owner or harbinger of a dog, cat or ferret over five months old is required to have such dog cat, or ferret inoculated as set forth below:



1. Inoculation must be performed by a person licensed to practice veterinary medicine in the State of Kansas.
  2. Inoculation must be with a prophylactic vaccine approved by the United States Department of Agriculture and listed in the current National Association of State and Public Health Veterinarian's Compendium of Rabies Control.
  3. Annually, a veterinarian must certify to the City Treasurer, on forms provided by the Treasurer, that such dog has been properly vaccinated in accordance with the current compendium of rabies control. Annually, a new vaccination tag shall be assigned to such dog.
  4. Unless a licensed veterinarian certifies to the Director of Environmental Services Supervisor of Animal Control that such vaccination would be injurious to such dog due to its age or health, all dogs or cats must be vaccinated for rabies by a licensed veterinarian at least every three years. Ferrets must be vaccinated for rabies annually.
- (c) The City Treasurer, in consultation with the Health Officer Chief of Police or designee, shall provide suitable forms to veterinarians practicing in metropolitan Wichita for the licensing and rabies vaccination of such dogs. Such forms are to be designed to receive information on the dog's name, breed, and description, date, of rabies vaccination, veterinary tag number, microchip number, information whether the dog is spayed or neutered, whether a fenced yard or fenced run is available for confinement of the dog, and owner's name, address and telephone number. The veterinarian shall certify that the dog is properly vaccinated for rabies, or that it is injurious to the dog's health to receive such vaccination due to its age or health. Such forms will serve as the vaccination certificate, the application to keep a dog, and the actual license when validated. The forms are to be completed by the veterinarian at the time of vaccination and distributed as follows: one copy - city treasurer, one copy - veterinarian; and one copy - dog owner. The dog owner has the opportunity to make payment for the license fee at the veterinarian's office. However, the dog owner may elect to remit the license fee at the city treasurer's office, in which case the form shall be validated by an appropriate City Treasurer stamp. If the license fee payment is submitted to the veterinarian, all form copies shall be validated with a numbered City of Wichita stamp which shall be supplied by the City Treasurer. The veterinarian shall retain his or her copy for two three years for his or her own use and for possible reference use by the City Treasurer. The City Treasurer shall provide postage-guarantee addressed envelopes to veterinarians for their use in facilitating payment of license fees to the city. All such license fees collected by veterinarians shall be submitted to the City Treasurer not later than thirty days following the last day of the month in which the license fee was collected.
- (d) The premises of the dog owners shall be available for inspection by the Health Officer Supervisor of Animal Control or designee to insure a fenced yard or fenced run is available that can adequately confine the dog, if so stated in the license application, and to insure that such animals are maintained on premises which are sanitary.
- (e) The owner of a dog will provide, upon request of the Health Officer Supervisor of Animal Control or designee, proof of current licensure and vaccination.
- (f) The owner of a cat or ferret will provide, upon request from the Health Officer Supervisor of Animal Control or designee, proof of current vaccination.

SECTION 18. Section 6.04.140 of the Code of the City of Wichita, Kansas is amended

to read as follows:

Sec. 6.04.140. Vaccination and identification tags.

(a) The veterinarian administering the rabies vaccination shall issue a metallic tag for the particular dog vaccinated, on which tag shall be distinctly marked the veterinarian's name or veterinary clinic's name, address, and tag identification number. The year of issuance also shall be distinctly marked, which shall be the same as the year of vaccination or rabies certification for such animal. A new vaccination tag shall be issued in accordance with the procedures established in 6.04.110. The owner of any dog which is determined by the Health Officer Supervisor of Animal Control or designee to be running at large while not wearing a collar with identification consisting of the owner's name and current address, or if such dog is over five months old, a current rabies vaccination tag, is guilty of a misdemeanor.

SECTION 19. Section 6.04.155 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.155. Dog breeder license; breeder inspections.

(a) No person shall be a dog breeder, as defined by Section 6.04.010, unless such person is properly licensed by the City of Wichita as a breeder.

(b) All dog breeders, shall make an application for, and obtain an annual dog breeder's license as established and described by this section.

1. An application for a breeder's license shall be obtained from the City Treasurer's Office, Environmental Services, Animal Services or the City of Wichita's website. The application shall contain the following information:

- a. The name, date of birth and address of the applicant;
- b. The name, breed, color, sex and age of all dogs owned by the applicant;
- c. Documentation that all animals are properly vaccinated and licensed;
- d. Name and address of the licensed veterinarian who is responsible for the care and treatment of the animals;
- e. A signed statement by the applicant that the information is true and correct;
- f. The permanent ID or microchip number of all animals owned, if available;
- g. A statement as to whether there is a fenced yard or fenced run available for the confinement of the dogs.
- h. A statement as to whether the applicant has ever had a licensed suspended or revoked which was issued by the State of Kansas pursuant to the Kansas Pet Animal Act. Such statement shall contain the date of any such suspension or revocation.
- i. The zoning classification for the premises where the animals will be maintained.
- j. A copy of any current license issued to the applicant by the State of Kansas pursuant to the Kansas Pet Animal Act.

2. The Health Officer Chief of Police or designee is empowered to establish administrative requirements for obtaining dog breeder licenses. Application forms and administrative requirements can be obtained through Animal Services, Environmental Services, City Treasurer, or the City website.

(c) Approval of dog breeder licenses shall be contingent upon the applicant's compliance with all administrative requirements set forth by the Health Officer Chief of Police or designee

including, but not limited to, proper veterinary care, health certification of breeding stock and offspring, and compliance with all applicable requirements, and/or regulations of the City of Wichita and the State of Kansas.

(d) The Health Officer Chief of Police or designee may refuse to approve issuance or renewal of, or revoke, a breeder's license for one or more of the following conditions:

1. Failure of the applicant to provide proof that the animals are properly licensed and vaccinated;
2. The making of any false statement as to any material matter in the application for a license, or a license renewal, or in a hearing concerning the license;
3. Violation by the applicant of a provision of this title, the Kansas Pet Animal Act or any state or federal law relating to the care and treatment of animals;
4. Suspension or revocation of a license issued by the State of Kansas pursuant to the Kansas Pet Animal Act; or
5. The applicant has a history of allowing animals to run loose or escape, has otherwise been found to be neglectful, has had an animal identified as a nuisance, or has previously been determined to have violated the provisions of this title.

(e) No breeder's license shall be approved or renewed for premises zoned residential by the Wichita/Sedgwick County Unified Zoning Code.

(f) No breeder's license shall be approved for an individual who owns more than two unaltered pit bulls, unless otherwise exempted within this title. If the Health Officer Chief of Police or designee refuses to issue or renew a license under this section, such individual shall have the appeal rights established by Section 6.04.158.

(g) The fee for a breeder license is established at fifty dollars annually. Such licenses shall expire one year from the date of issue. The City Treasurer shall impose a penalty of fifty dollars annually on all delinquent license renewals beginning thirty days following the expiration of the previous license. Failure by a person to obtain a breeder license as required by this section shall constitute a misdemeanor. Conviction of two or more violations of this code within a two-year period may result in revocation of the breeders' license. The individual shall be precluded from obtaining a breeder's license for a period of twenty-four (24) months following the revocation.

(h) All places and premises by licensed breeders or persons seeking approval for a breeder license as described by this chapter shall be open during reasonable hours for inspection by the Health Officer Animal Control in order to ensure the health, safety, and welfare of the animals on said property. If upon such an inspection by the Health Officer Animal Control any person who has been granted or applied for a license is found violating any of the regulations prescribed in this chapter, or any provisions within the Unified Zoning Code, or any administrative regulation established by the Health Officer, Chief of Police or designee such person shall be given a written notice of such violation. If such violation or violations of this code do not or cannot cease within twenty-four hours of such notification, the permit, or license may be revoked or canceled by action of the Health Officer Chief of Police or designee, pursuant to the procedures set forth in Section 6.04.159 of this code.

(i) It shall be unlawful for any breeder of pit bulls, as defined by this title, to engage in the breeding of such animals with an owner, keeper or harbinger of a pit bull involved in the breeding process who is not also licensed as a breeder.

(j) Upon a first conviction of a violation of the provisions of this section, a minimum fine of \$100.00 shall be imposed. Upon a second or subsequent conviction, of a violation of the provisions of this section, a minimum fine of \$250.00 shall be imposed. In addition, the

Municipal Court Judge may impose a term of imprisonment not to exceed six months and/or a fine not to exceed one thousand dollars.

SECTION 20. Section 6.04.157 of the Code of the City of Wichita, Kansas is amended

to read as follows:

Sec. 6.04.157. Maximum number of dogs and cats and maintaining livestock.

(a) No person shall own, keep or harbor upon any premises or property, or in any dwelling of any type within the city:

1. Livestock;
2. More than two dogs;
3. More than two cats;
4. More than two rabbits;
5. More than three fowl; or
6. More than three pigeons;

unless such person has a current Animal Maintenance Permit or variance issued by the Health Officer Chief of Police or designee authorizing the maintenance of such animals. The provisions of this section shall not apply to common carriers transporting domestic animals to or through the City. Permits shall not be required for indoor non-commercial maintenance of fish, nonpoisonous amphibians and reptiles allowed by Section 6.04.040, birds and small rodents. Any individual who fails to comply with the requirements of this section shall be deemed guilty of a misdemeanor.

(b) No person shall keep, own, or harbor upon any premises or property or in any dwelling of any type within the city, more than three different kinds of domestic animals or livestock unless such person has a current animal maintenance permit or variance issued by the Health Officer Chief of Police or designee authorizing the maintenance of such animals. Any individual who fails to comply with the requirements of this section shall be deemed guilty of a misdemeanor.

1. Any person, rescue organization or foster care home, who desires to own, keep, or harbor livestock, or more than two dogs or more than two cats or more than two rabbits, or more than three fowl or pigeons, shall apply the City of Wichita for an 'animal maintenance permit' that shall permit the applicant to own, keep or harbor the animals specifically allowed in that permit.

2. Any person, rescue organization or foster care home, who desires to own, keep or harbor more than three different kinds of domestic animals shall apply with the City of Wichita for an animal maintenance permit that shall permit the applicant to own, keep or harbor more than three different kinds of domestic animals.

TABLE 1:

TABLE INSET:

KIND OF ANIMAL	MINIMUM REQUIRED FOR PERMIT	MAXIMUM ALLOWED WITH PERMIT	PERMIT FEE
Dogs, excluding pit bulls	3	4	\$25.00
Cats	3	4	\$25.00

Fowl	4	12 (25 pigeons)	\$25.00
Sheep	1	One animal per acre	\$100.00
Goats--(Nannies only)	1	One animal per acre	\$100.00
Horses	1	One animal per acre	\$100.00
Cattle	1	One animal per acre	\$100.00
Ratites	1	One animal per acre	\$100.00
Pig--Neutered, miniature Vietnamese Pot-Bellied	1	1	\$25.00
Rabbits	4	12	\$25.00
Other	3	(25 fur-bearing animals, i.e. chinchilla, mink)	\$100.00

Owning more than three kinds of animals, regardless of number of animals, requires the owner to obtain an Animal Maintenance Permit. Any combination of permit fees will not exceed \$100.00 per application. If a permit application is denied, 50% of the proposed permit fee will be retained for the administrative costs incurred.

3. It is unlawful for any person to own, harbor or maintain more animals or different types animals than is allowed by the Animal Maintenance Permit issued to such person by the Health Officer, Chief of Police or designee.

4. The Health Officer Chief of Police or designee is empowered to establish administrative requirements for obtaining an Animal Maintenance Permit. Application forms and administrative requirements can be obtained through Animal Services, Environmental Services, City Treasurer or the City website.

The application shall contain the following information:

- a. The name, date of birth and address of the applicant;
- b. The name, breed, color, sex and age of all animals owned by the applicant;
- c. Documentation that all animals are properly vaccinated and licensed;
- d. Name and address of the licensed veterinarian who is responsible for the care and treatment of these animals;
- e. A signed statement by the applicant that the information is true and correct;
- f. The permanent ID or microchip number of all animals owned, if available;
- g. A statement as to whether the animals are spayed or neutered and whether there is a fenced yard or fenced run available for the confinement of the animals.
- h. The size of the premises in which the animals may be maintained.
- i. A diagram of the location of any and all domestic animal structures in which animals will be maintained.
- j. A signed statement on behalf of the applicant that maintenance of the animals will be in compliance with the animal control and sanitary waste requirements of the City of Wichita.
- k. A statement by the applicant that the zoning requirements of the Unified Zoning Code of the City of Wichita and Sedgwick County will be complied with.
- l. A statement as to whether the applicant has ever had a licensed suspended or revoked which was issued by the State of Kansas pursuant to the Kansas Pet Animal Act. Such statement shall contain the date of any such suspension or revocation.

m. A copy of any current license issued to the applicant by the State of Kansas pursuant to the Kansas Pet Animal Act.

5. Approval of an Animal Maintenance Permit shall be contingent upon the applicant's compliance with all administrative requirements set forth by the Health Officer Chief of Police or designee, the provisions of this title and the rules and the rules and regulations of the City of Wichita and the State of Kansas. Such applicant must show:

a. that the keeping of additional animals will not create a nuisance in the surrounding neighborhood, that humane care will be provided and that the premises where the animals are kept is suitable for the keeping of multiple animals and is in conformity with all City zoning requirements. The criteria to be evaluated include, without being limited to, the following:

1) That the animals will be kept or maintained at all times in a safe and sanitary manner.  
2) That the quarters in which such animals are kept or confined will be adequately lighted and ventilated and are so constructed and maintained that they can be kept in a clean and sanitary condition.

3) That the health and well-being of the animals will not in any way be endangered by the manner of keeping or confinement.

4) That the keeping of such animals will not harm the surrounding neighborhood or disturb the peace and quiet of the surrounding neighborhood.

5) That the keeping of such animals will not cause fouling of the air by offensive odors and thereby create or cause unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animals are kept or harbored.

6) That the animals will not unreasonably annoy humans, endanger the life, health or safety of other animals or persons or substantially interfere with the rights of citizens to the enjoyment of life or property.

7) That the animals will not make disturbing noises, including but not limited to, continued and repeated or untimely howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors and others in close proximity to the premises where the animals are kept or harbored, or otherwise be offensive or dangerous to the public health, safety or welfare, by virtue of their behavior, number, type or manner of keeping.

8) That the applicant, or any person who will share in the care, custody and control of the animals, is not currently in violation of, or has not previously violated any applicable City, state or federal laws, codes, rules or regulations, including, but not limited to, those pertaining to the care and control of animals and the maintenance of their property, which would reflect adversely on their ability to fully comply with the conditions of the subject permit.

b. The Health Officer Chief of Police or designee may deny any application where any one or more of the following conditions exist:

1) The applicant fails to show proof of the aforementioned requirements or an examination of the documentation submitted by the applicant;

2) An investigation by Animal Services reveals that the applicant has failed to meet the requirements of this section.

3) The applicant made a false statement as to any material matter in the application for a license of a license renewal, or in a hearing concerning the license.

4) Violation by the licensee or applicant of a provision of this title, the Kansas Pet Animal Act or any state or federal law relating to the care and treatment of animals.

5) If the applicant has had a breeder's license or animal maintenance permit revoked within eighteen (18) months prior to the application.

- 6) If the applicant has had a license issued by the Kansas Department of Animal Health suspended or revoked within eighteen (18) months prior to the application.
- 7) Maintenance of the animals would be in violation of the Unified Zoning Code of the City of Wichita.
- 8) No Animal Maintenance Permit shall be issued to own, keep, or harbor more than two adult pit bull dogs.
- 9) The applicant has a history of allowing animals to run loose or escape, has otherwise been found to be neglectful, has had an animal identified as a nuisance, or has previously been determined to have violated the provisions of this title.

c. The Health Officer Chief of Police or designee shall state, in writing, the factual basis for his or her recommendation to grant or deny any application. The Health Officer Chief of Police or designee shall consider past violations, the size, condition and location of the area where the animals will be kept, the size of the animals to be kept, past complaints concerning the applicant, the burden of proof and the criteria set forth in this section, or any other factors relative to the issue of keeping additional animals.

The permit shall be issued for the period not to exceed twelve (12) months.

d. The fee for such Animal Maintenance Permit shall be paid in accordance with Table 1 of Subsection (b)(2). All fees shall be nonrefundable and nontransferable. The Animal Maintenance Permit shall be issued for the individual animals listed on the application and shall not be transferable to other animals. The fact an individual has previously been issued an animal maintenance permit may be considered but shall not be controlling to the Health Officer's Chief of Police or designee's decision to issue animal maintenance permit for a different animal. The denial of any Animal Maintenance Permit shall be subject to the appeal procedures set forth in Section 16.04.158.

e. Any applicant who had more than two cats or more than two dogs or livestock prior to annexation of their property by the City, shall be permitted to keep but not replace said animals until their number equals the number of animals permitted by Section 6.04.157(a). Any such applicant shall be required to apply for an Animal Maintenance Permit and be required to pay a yearly renewal fee, provided that nothing in this section shall exempt or except any applicant or any other person from the registration, vaccination or any other requirement of this chapter.

f. Any individual who had a current Animal Maintenance Permit or variance at the time of passage of this ordinance shall be permitted to keep but not replace said animals until their number equals the number of animals permitted by Section 6.04.157(a). Any such applicant shall be required to apply for an Animal Maintenance Permit and be required to pay a yearly renewal fee, provided that nothing in this section shall exempt or except any applicant or any other person from the registration, vaccination or any other requirement of this chapter.

g. Any individual who had a current Animal Maintenance Permit or variance for livestock at the time of passage of this ordinance shall be permitted to keep but not replace said animals. Any such applicant shall be required to apply for an Animal Maintenance Permit and be required to pay a yearly renewal fee, provided that nothing in this section shall exempt or except any applicant or any other person from the registration, vaccination or any other requirement of this chapter.

h. For the purposes of this section:

1) *Nuisance* for the purposes of this section, shall be defined as any act which is unreasonably annoying or vexatious to another or substantially interferes with the rights of others and shall include, but not be limited to, obnoxious odors, excessive noise, and creation of an environment

attractive to other animals or insects. More than three substantiated violations of this title within a twelve-month period will automatically constitute a nuisance.

2) *Humane standards of care* shall be defined to include, but not be limited to, accessibility of the animal to food and water, proper medical attention, proper shelter from the elements, and cleanliness in animal waste areas with regular waste removal.

3) *Livestock* includes, but is not limited to: horses, mules, cattle, sheep, llamas, ratites and goats.

i. Not more than one head of livestock shall be kept for each one acre of contiguous unbuilt land area, provided that the limitation shall not apply to a commercial riding stable, a riding academy, or a commercial stockyard with an approved manure disposal plan.

j. Owners of livestock within the City without an Animal Maintenance Permit or variance on the date of the passage of this ordinance shall be allowed twelve months from the date of adoption to come into compliance with the acreage requirements set forth in subsection (1).

k. Owners of livestock within the City with a current Animal Maintenance Permit or variance at the date of the adoption of the ordinance shall be permitted to keep, but not replace said animals.

l. All owners or harborers of livestock must comply with the provisions of Section 6.04.173 regarding the maintenance of all domestic animal structures.

m. The holder of an Animal Maintenance Permit will provide, upon request of the Health Officer Supervisor of Animal Control or designee proof of licensure where applicable, and vaccination of any animals subject to the Animal Maintenance Permit.

n. The premises designated in the animal maintenance permit shall be available for inspection by the Health Officer to ensure compliance with the provisions of this code and the laws of the State of Kansas.

o. The holder of an animal maintenance permit will notify the Health Officer City of Wichita if any of the animals subject to the animal maintenance permit is no longer owned by the individual. Any individual who fails to comply with the requirements of this section shall be deemed guilty of a misdemeanor.

6. Variances. Any application for a variance to own, keep, or harbor more than four (4) dogs or four (4) cats or any combination thereof in excess of four (4) or for a variance to the requirements of this chapter based on physical or geographical features of the site, or required acreage for livestock, may be granted by the Director of Environmental Services Chief of Police or designee if he or she determines that the variance will not adversely affect public health and safety or the environment, pose a threat to the environment or constitute a nuisance to neighbors.

a. The applicant shall complete an application form and pay all applicable fees for an animal maintenance variance. Such application shall include the information set forth in the application for an Animal Maintenance Permit. In addition to the fees set forth in Subsection (b)(2), the applicant shall pay an initial inspection fee of \$50.00 to the City of Wichita. No inspection fee shall be assessed for subsequent renewals of any variance.

b. In making the determination as to whether the variance request should be granted, the Director of Environmental Services Chief of Police or designee shall rely on the criteria set forth in subsection (4) of this section.

c. The Director Chief of Police or designee shall notify the applicant for the variance of his or her determination of the request in writing stating the basis for any denial and any conditions placed on any granted variance request. Individuals aggrieved by any decision of the Director of Environmental Services Chief of Police or designee relative to waivers may appeal to the City Council within ten days of the notice of such decision pursuant to Section 6.04.210 of this Code.



SECTION 21. Section 6.04.158 of the Code of the City of Wichita, Kansas is amended

to read as follows:

Sec. 6.04.158. Appeal from denial of breeder's license, animal maintenance permit, or determination that dog is a Pit Bull.

(a) If the Health Officer Chief of Police or designee has determined that an applicant is not eligible for a Breeder's License or Animal Maintenance Permit, he or she will make an appropriate determination based on the known facts and consistent with the provisions of this title.

(b) The Health Officer Chief of Police or designee shall notify the individual of the denial in writing, stating the reasons for the denial of such application. Service of the notice shall be by certified mail, return receipt requested. Service of process by certified mail shall be considered obtained upon the delivery of the certified mail envelope.

(c) The applicant of a denied application or the owner of a dog deemed to be a pit bull may request an administrative review of the determination by filing a written request with the Health Officer Chief of Police or designee within ten days of receipt of such notification.

(d) The Health Officer Chief of Police or designee will conduct a hearing within ten days of receipt of the owner's request. At such hearing, testimony may be offered by the owner of the dog(s) or animals, the Health Officer, Animal Control Officers and/or staff of Animal Control, neighbors, or other affected persons, and veterinarians concerning the lineage of the dog, or the care and maintenance of the dog.

(e) The Health Officer Chief of Police or designee shall determine an appropriate disposition based on the facts determined at the hearing and the provisions of this chapter and will notify the applicant in writing of the outcome of the hearing within five business days. The owner may appeal the hearing outcome as provided in Section 6.04.210 of this Code.

SECTION 22. Section 6.04.159 of the Code of the City of Wichita, Kansas is amended

to read as follows:

Sec. 6.04.159. Revocation or suspension of license or permit.

(a) The Health Officer Chief of Police or designee, upon written notice to the licensee or permit holder, shall have the authority to suspend or revoke any permit, license or variance granted by the Health Officer or the Director of Environmental Services Chief of Police or designee for one or more of the following reasons:

(1) Violation by the licensee or permit holder of the provisions of this title, the Kansas Pet Animal Act, or other state or federal laws relating to the care and maintenance of animals.

(2) Obtaining the license or permit by fraudulent conduct, false statements or has otherwise made a material misrepresentation of fact in the application.

(3) Upon inspection, the Health Officer Supervisor of Animal Control or designee observes premises which are not in a clean and sanitary condition in compliance with the health standards set forth in this title.

(4) The licensee or permit holder has violated any terms or conditions of the license, permit or variance.

- (5) The animal's place of keeping constitutes a nuisance to the surrounding neighbors;
- (6) Humane standards of care are not being met by the permittee;
- (7) A violation of Unified Zoning Code has occurred;
- (8) The licensee or permit holder had provided false information in their application.
- (9) The licensee or permit holder has had a license issued by the State of Kansas pursuant to the Kansas Pet Animal Act or any other governmental agency related to the care of animals suspended or revoked.
- (10) The licensee or permit holder cannot be contacted for an inspection within two weeks of an initial request for an inspection of such premises or the licensee or permit holder refuses the animal control officer access for an inspection.
- (b) Individuals aggrieved by the suspension or revocation of any permit, license or variance may appeal to the City Council within ten days of the notice of such decision as set forth in Section 6.04.210 of this code.
- (c) An appeal taken from an order of suspension or revocation shall not suspend the order of suspension or revocation during the pendency of such appeal.
- (d) For the purposes of subsection (a) above, written notice shall be deemed sufficient upon the mailing of the notice to the applicant for the permit or license on file in the Office of the City Treasurer.

SECTION 23. Section 6.04.160 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.160 Authorization for quarantine.

The Health Officer Chief of Police or designee shall advise the City Manager, who shall report to the Mayor in the event a potential outbreak of rabies is suspected in the dog or cat population in the city. If the Mayor concurs with the Health Officer Chief of Police or designee that the danger of the public safety from rabid animals is reasonably imminent, the Mayor is hereby authorized and it shall be his or her duty to issue a quarantine proclamation ordering persons owning, keeping or harboring any dog or cat to muzzle the same and/or confine it as provided in this chapter for such time as may be specified in such quarantine proclamation. Upon the issuance of such proclamation by the Mayor, any dogs, cats or other animals capable of transmitting rabies found running at large during the time specified by the Mayor in his quarantine proclamation may be killed by any officer of the city under procedures established by the Health Officer Chief of Police or designee.

SECTION 24. Section 6.04.170 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.170. Dog and cat census.

Whenever deemed necessary, the Health Officer Chief of Police or designee may conduct a dog and cat census of any or all areas of the city as needed to insure that all dogs over five months old harbored in the city are vaccinated and licensed and that all cats over five months old harbored in the city are properly vaccinated.

SECTION 25. Section 6.04.172 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.172. Swine and goat maintenance.

- (a) Except as provided in subsection (b) of this section, it is unlawful for any person to keep or maintain any swine or male goats within the corporate limits of the city, except for stockyards or packing house operations, special scientific operations in industrial areas or activities in conjunction with livestock shows. Other industrial or agricultural maintenance of swine may be approved, if the industrial or agricultural premises is located five hundred or more feet from any residentially zoned lot as defined by the Unified Zoning Code. This distance requirement may be waived by the Director of Environmental Services Chief of Police or designee.
- (b) Registered purebred miniature Vietnamese potbelly pigs and other similar registered purebred miniature pigs may be kept within the city limits, subject to the conditions stated in subsections (c) and (d) of this section.
- (c) It is unlawful for any person to maintain a registered purebred miniature pig which:
  - (1) Weighs more than eighty pounds;
  - (2) Is not spayed or neutered upon reaching maturity;
  - (3) Has not undergone a blood test to show the animal is free from pseudo rabies; or
  - (4) Is maintained as a food source.
- (d) It is unlawful for any person to:
  - (1) Keep a registered purebred miniature pig without a current animal maintenance permit as required by Section 6.04.157 of the Code of the City of Wichita;
  - (2) Maintain more than one registered purebred miniature pig on any licensed premises.

SECTION 26. Section 6.04.173 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.173. Domestic animal structures and enclosures.

- (a) Domestic animal structures used for livestock and livestock feeding and watering troughs shall not be less than two hundred feet from any adjacent dwelling and not less than twenty feet from any property line.
- (b) Stables, coops, pens and other structures for the housing of animals shall comply with all zoning requirements of the City of Wichita-Sedgwick County Unified Zoning Code.
- (c) The Director of Environmental Services Chief of Police or designee will evaluate properties and may issue waivers of distance and setback requirements for domestic animal structures where such waivers do not adversely affect public health and safety, pose a threat to the environment or constitute a nuisance to neighbors. Criteria for review for such variance will include, in addition to site-specific requirements, the following requirements:
  - (1) That the animals will be kept or maintained at all times in a safe and sanitary manner;
  - (2) That the quarters in which such animals are kept or confined will be adequately lighted and ventilated and are so constructed and maintained that they can be kept in a clean and sanitary condition;
  - (3) That the health and well-being of the animals will not in any way be endangered by the manner of keeping or confinement;

(4) That the animals will not unreasonably annoy humans, endanger the life, health or safety of other animals or persons or substantially interfere with the rights of citizens to the enjoyment of life or property;

(5) That the keeping of such animals will not harm the surrounding neighborhood or unreasonably disturb the peace and quiet of the surrounding neighborhood;

(6) That the keeping of such animals will not cause fouling of the air by offensive odors and thereby create or cause unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animals are kept or harbored;

(7) That the animals will not repeatedly run or be found at large, will not damage property or deposit excretory matter upon the property of anyone other than their owner;

(8) That the animals will not make disturbing noises, i.e., continued and repeated or untimely howling, barking, whining or other similar utterances causing unreasonable annoyance, disturbance or discomfort to neighbors where the animals are kept or harbored, or otherwise be unreasonably offensive or dangerous to the public health, safety or welfare, by virtue of their behavior, number, type or manner of keeping;

(9) That the applicant or any person who will share in the care, custody and control of the animals, is not currently in violation of, or has not previously violated any applicable city, state or federal laws, codes, rules or regulations, including, but not limited to, those pertaining to the care and control of animals and the maintenance of their property, which would reflect adversely on their ability to fully comply with the conditions of the subject permit.

(e) In considering waivers for Domestic Animal Structures, the Director of Environmental Services Chief of Police or designee will consider:

(1) Specific location of the animal structure or enclosure on the property in question;

(2) The size of the lot and distance of the structure or enclosure to adjacent property lines and dwellings;

(3) Structures located on or uses made of the adjacent property and the likelihood that a waiver would adversely affect the use of the adjacent property;

(4) Type and number of animals to be maintained and the potential for creation of a nuisance;

(5) Any history of complaints and violations concerning the permit holder's compliance with this code or violations of local, state or federal law;

(6) Any comments of neighbors; and

(7) Any other available information concerning the potential for creation of a nuisance.

The Director Chief of Police or designee shall notify the applicant for the variance of his or her determination of the request in writing stating the basis for any denial and any conditions placed on any granted variance request. Individuals aggrieved by any decision of the Director of Environmental Services Chief of Police or designee relative to waivers may appeal to the City Council within ten days' of notice of such decision as set forth in Section 6.04.210 of this Code.

SECTION 27. Section 6.04.175 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.175. Health standards--Minimum listed.

That the following minimum environmental health standards shall be observed and followed by persons subject to the terms of this title:

- (a) All domestic animal structures shall be cleaned at least once each week or as often as necessary to prevent or control odors, fly breeding and rodent infestation; provided, however, that this shall not apply to grazing areas or to stockyards.
- (b) Domestic animal structures owned or operated by a stockyard shall be cleaned as often as is necessary, as determined by the Health Officer Supervisor of Animal Control or designee to control fly breeding or to control other conditions adversely affecting the public health.
- (c) Collected fecal material and other solid organic waste shall be disposed of at a sanitary landfill or transfer station, fertilizer processing plant, by property dispersal on land used for agricultural purposes or other method approved by the Health Officer Chief of Police or designee.
- (d) Grain or protein feed shall be stored in tightly covered rodent-proof metal containers or rodent-proof bins.
- (e) Premises subject to the terms of this code shall be maintained free of rodent harborage.
- (f) Use shall be made of effective chemical or other approved means for the control of rodents and flies.
- (g) Use shall be made of soil sterilants and herbicides or other effective means for the control of weeds and grass around structures and buildings.
- (h) All domestic animal structures and fences shall be maintained in good repair.
- (i) Enclosures, including fences, for livestock shall be constructed in a manner to prevent domestic animals from breaking out or causing hazard to persons or property.
- (j) Garbage shall not be fed to fowl.
- (k) Refuse shall be stored in a manner approved by the Health Officer Supervisor of Animal Control and disposed of at least once each week or as frequently as may be required by the health officer Supervisor of Animal Control.
- (l) Wastes accumulated from the cleaning of domestic animal structures shall be stored in suitable containers, with tight-fitting metal lids, and all such stored or accumulated wastes shall be disposed of at least once each week.
- (m) Barbed-wire fences and electrically charged fences shall not be permitted in residentially zoned districts except in situations where the barbed wire fence or electrically charged fence is protected by an exterior fence.
- (n) Holding lots, pens and floors of sheds and buildings where animals are held shall be surfaced with concrete or asphaltic materials and the drainage system of such surfaced areas shall include proper retaining walls and traps to control the waste from draining into water courses. Such drainage systems shall be subject to the approval of the Health Officer Supervisor of Animal Control. The Health Officer Supervisor of Animal Control may waive this standard for animal holding operations where such animal holding is longer than twenty-four hours or where dirt lots are more appropriate to the proper care of cattle, horses, sheep or other livestock.
- (o) Wastes accumulated from the cleaning of domestic animal structures in commercial or industrial operations shall be stored on concrete slabs or on an area with an impermeable barrier as approved by the Health Officer Supervisor of Animal Control. All solid wastes shall be properly disposed of at least once each week or as often as necessary to prevent any associated nuisances, or as approved by the Health Officer Supervisor of Animal Control.
- (p) Slaughter of animals is prohibited on residentially zoned lots or lots utilized for residential purposes. This prohibition shall not apply to processing of fish or game lawfully taken for individual consumption, nor shall it apply to the slaughter of animals as part of religious practices to be conducted on the property on which the slaughter occurs.

Any individual who fails to comply with the requirements of this section shall be deemed guilty of a misdemeanor.

SECTION 28. Section 6.04.176 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.176. Pet shop, stables, kennel, commercial animal facilities, and animal "day care" regulations.

It shall be unlawful for any pet shop, rescue organization, animal foster care organization, commercial animal facility, groomer, breeder, kennel, stable or animal "day care" business to fail to:

- (a) Maintain and retain records for a two-year period on all animals maintained in such facility. Such records shall show breed, color, markings, sex and age; date received and source, including name and address of owner or previous owner; date and disposition of animal, including name and address of new owner if applicable; disease prevention and/or treatment and by whom. Such records shall be made available to the Health Officer Supervisor of Animal Control upon request for inspection;
- (b) Provide cages and pens constructed of nontoxic, easily cleanable, water-impervious materials if used for confining animals and shall keep such cages and pens clean and sanitary at all times;
- (c) Provide adequate space and ventilation to prevent overcrowding, odors, and minimize contagion;
- (d) Provide general environmental conditions including endoparasite and ectoparasite control, clean wholesome food and water, weather protection and clean and sanitary facilities so as to enhance the health and well-being of such animals.
- (e) Maintain a building temperature at a comfortable level. Maintain adequate ventilation by means of windows, doors, vents and fans.
- (f) Provide each animal with sufficient space to stand up, lie down and turn around in a natural position without touching the sides or top of the enclosure. If additional space is not provided, either indoor or outdoor, then this enclosure must provide an adequate exercise area.
- (g) All enclosures shall be kept clean and dry.
- (h) Provide food which is free from contamination, and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal.
- (i) Provide all animals with fresh water available at all times, except as part of a veterinary treatment regimen.
- (j) Provide veterinary care to maintain good health and general welfare.
- (k) Maintain the premises of such business, and any domestic animal structures on such premises, in a clean and sanitary condition in compliance with the health standards set forth in this chapter.
- (l) Comply with all provisions of the Unified Zoning Code.

Any individual who fails to comply with the requirements of this section shall be deemed guilty of a misdemeanor.

SECTION 29. Section 6.04.210 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.210. Appeal from Health Officer Chief of Police or designee's rulings. Unless otherwise specified, any person dissatisfied with any order or determination of the Health Officer Chief of Police or designee made under his or her authority pursuant to this chapter may appeal such order or determination to the City Council. An appeal shall be a de novo quasi-judicial proceeding from which further appeal may be taken to the district court. An appeal must be filed with the City Clerk no more than ten business days from the date of the written order appealed from. The City Council will hear the appeal no later than thirty days from the filing of such appeal.

SECTION 30. Section 6.04.215 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.215. Dogs prohibited in parks; exceptions. Except as otherwise allowed for by this title, it is unlawful for any person to allow or permit any dog to run at large in any park or to permit any dog, with or without a leash, except for service dogs or dogs used by public law enforcement agencies and under the control of a law enforcement officer, to enter any public beach, wading area, pond, fountain, stream or designated children's play area. The Director of Parks and Recreation and the Director of Environmental Services Chief of Police or designee may ban dogs or other animals, or a specific dog or other animal from areas of any park where he or she determines the same to be a nuisance.

SECTION 31. Section 6.04.218 of the Code of the City of Wichita, Kansas is amended to read as follows:

Sec. 6.04.218. Designation of dog parks, off-leash areas; rules and regulations; penalties for offenses.

(a) Dogs may be allowed to run at large only in dog parks and off-leash areas as designated by the Wichita City Council. The designation of such parks and off-leash areas shall be made at the recommendation of the Director of Park and Recreation and the Director of Environmental Services. Chief of Police or designee.

(b) It shall be unlawful for any dog owner to violate any of the following regulations regarding the use of any City designated dog park or off-leash area in a park owned by the City of Wichita:

(1) All dogs that enter the park must be over five months of age, not in heat, and have a valid license and current rabies vaccination with an accompanying tag. The tag must be securely affixed to the dog's collar at all times.

(2) All dogs must be leashed when entering or leaving the park's fenced enclosures and owners must retain possession of the leash at all times when within the parks fenced enclosure.

(3) Owners must be at least 14 years of age and remain within the park's fenced enclosure and in control of all dogs under their care at all times when within the park. Owners are limited to 3 dogs per visit.

- (4) Owners shall immediately pick up their dogs' excrement and deposit it in the designated receptacle.
- (5) Aggressive, vicious or contagious dogs are prohibited from use of the park.
- (6) Owners shall immediately close and secure the gate upon entering or exiting the confines of the park's fenced enclosure.
- (7) Entrance within the park in violation of its posted hours or when closed is prohibited.
- (8) No animals, other than dogs, may be brought into the dog parks.
- (9) Dogs must never be left unattended. The dog owner must be in reasonable control of his or her dog(s) at all times and keep a leash available at all times.
- (10) Dogs may not be brought into the park if they are sick or unhealthy, have a history of aggressiveness, or have been adjudicated a dangerous dog.
- (11) No food or treats for human or animal consumption, rawhide chews, alcoholic beverages, glass containers, bicycles, skateboards, motorbikes, scooters, or roller blades will be allowed in the dog park area. Littering is prohibited. Smoking is prohibited inside the park and within ten feet of the park's parameter.
- (12) Dog owners must immediately fill any holes their dogs dig.
- (13) Professional dog trainers and behaviorists are not permitted to use the park to conduct their business.
- (14) All owners must have in his or her possession a baggy or some other form of equipment to clean up after his or her dog(s). All waste must be placed in a bag and placed in a waste receptacle provided at the park.
- (15) No large dogs (over 25 pounds) will be allowed in the small-dog areas of the dog park. Such areas will be clearly marked.
- (16) No small dogs (under 25 pounds) will be allowed in the large dog areas of the dog parks. Such areas will be clearly marked.
- (17) All dog bites must be reported to Animal Services. If a bite occurs, the dog's owner must exchange his or her name and phone number with the victim of the bite.
- (18) The City of Wichita, the Director of Parks and Recreation, and the Director of Environmental Services Chief of Police or designee reserve the right to close a dog park for maintenance and repair, public safety reasons or for special events.
- (c) It is unlawful for any person to:
  - (1) Enter or remain in a dog park at such time as such park is closed to the public as set out herein or at such time as provided for under the rules and regulations adopted by the Director of Environmental Services Chief of Police or designee and Director of Parks and Recreation.
  - (2) Fail to immediately leash and restrain a dog in the dog park when advised to do so by the Health Officer Animal Control Officer or the Director of Parks and Recreation or his or her designee.
  - (3) Fail to immediately leave the dog park when ordered to do so by a law enforcement officer, Health Officer Animal Control Officer or the Director of Parks and Recreation or his or her designee.
- (d)
  - (1) Owners assume all risks, loss or injury for themselves or their dog(s) associated with or resulting from the use of the park.
  - (2) Owners making use of the dog park shall be responsible for injuries caused by their dogs to other persons and dogs. Persons responsible for any injuries or property damage shall hold the City of Wichita harmless for any such damage.



(e) Enforcement of the above rules and regulations is under the immediate supervision of the Director of Environmental Services Chief of Police or designee and the Director of Parks and Recreation. Violators of dog park rules and regulations may be subject to one or more of the following:

(1) Removal from the park;

(2) Suspension of park privileges;

(3) Issuance of a Uniform Criminal Complaint or Notice to Appear.

(f) If an owner or individual is found guilty of violating the rules and regulations of a city-owned dog park of any other provisions of this section, such owner or individual shall be guilty of a misdemeanor.

(g) The Director of Parks and Recreation and the Director of Environmental Services Chief of Police or designee shall promulgate additional regulations as are necessary to address health and safety concerns related to the operation of such parks. A copy of such regulations shall be available for inspection at Animal Services the Animal Shelter and the Office of the Director of Parks and Recreation during regular office hours.

SECTION 32. The originals of Sections 6.04.010; 6.04.020; 6.04.025; 6.04.035; 6.04.036; 6.04.040; 6.04.045; 6.04.047; 6.04.048; 6.04.050; 6.04.052; 6.04.070; 6.04.080; 6.04.090; 6.04.100; 6.04.110; 6.04.140; 6.04.155; 6.04.157; 6.04.158; 6.04.159; 6.04.160; 6.04.170; 6.04.172; 6.04.173; 6.04.175; 6.04.176; 6.04.210; 6.04.215; and 6.04.218 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 33. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 24th day of May, 2011.

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Carl Brewer, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Gary E. Rebenstorf

First Published in The Wichita Eagle on \_\_\_\_\_

DELINEATED

DATE

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SECTIONS 6.08.010; 6.08.030; 6.08.060 AND 6.08.070 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO EXOTIC ANIMALS AND REPEALING THE ORIGINALS OF SAID SECTIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Section 6.08.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Sec. 6.08.010. Definitions.

As used in this chapter:

'Dangerous wild animals' means, including, but not limited to, coyotes, bobcats, foxes, wolves, lions, tigers, leopards, jaguars, cheetahs, mountain lions, or any hybrid thereof; bears or any hybrid thereof; other carnivorous animals of a similar nature and species and venomous reptiles.

'Exhibitor' means a person whose business involves the showing or displaying of animals to the public and who is a Class C USDA licensee as defined by 9 C.F.R. § 1.1, as amended.

~~'Health officer' means the director of Environmental Services or his or her authorized representative.~~

'Secondary perimeter' means a fence, rope, elevation separation such as a stage, or some other physical arrangement as may be approved by the ~~health officer~~ Chief of Police or designee by

which the public is kept at such a distance from an animal as to avoid accidental or intentional contact with animals.

'USDA license' means a person licensed as a breeder (Class A), dealer (Class B) or exhibitor (Class C) in accordance with 9 C.F.R. § 1.1, et seq., as amended.

'USDA licensed facility' means a facility for the housing of dangerous wild animals operated by a person with an USDA license.

'Veterinary clinic' means a facility for the care and treatment of animals operated by a doctor of veterinary medicine licensed by the state of Kansas.

SECTION 2. Section 6.08.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Sec. 6.08.030. Exhibition requirements.

(a) Only Class C licensees who have registered as exhibitors as required by this chapter shall be allowed to exhibit dangerous wild animals within the city.

(b) At least one Class C licensee must be present at all times at each exhibition and in direct physical control of the dangerous wild animals being exhibited.

(c) Public contact with dangerous wild animals shall be prevented by a secure enclosure with a secondary perimeter to avoid public contact with the animals.

(d) Exhibitors must notify ~~Environmental Services~~ the Supervisor of Animal Control twenty business days prior to any exhibition within the city. The notice shall be in such manner as determined by the ~~health officer~~ Supervisor of Animal Control and shall include the date, time and location of each exhibition.

(e) Prior to the conduct of any exhibition in the city, exhibitors shall file with the Environmental Services copies of USDA permits applicable to these regulations. Upon the request of the health officer, prior to, during or following an exhibition, exhibitors shall have available and present to the ~~Environmental Services~~ Supervisor of Animal Control or state health officials copies of health records, vaccination records and ownership records for the dangerous wild animals exhibited.

(f) Exhibitors shall have a written protocol for first aid and medical attention in the event of an injury caused during exhibitions. Exhibitors shall maintain appropriate first aid equipment and supplies at an exhibition.

(g) Exhibitors shall maintain liability insurance covering any exhibition in the city in the amount of at least two hundred fifty thousand dollars (\$250,000) and naming the city ~~and Environmental Services~~ as additional ~~insureds~~ insured. A copy of the insurance shall be provided to ~~Environmental Services~~ the City prior to the exhibition.

Any insurer shall notify ~~Environmental Services~~ the City in writing, of any expiration, reduction or cancellation of liability insurance required by this subsection not later than ten days before the expiration, reduction or cancellation takes effect. Any surety company who secures the performance of a bond shall notify ~~Environmental Services~~ the City in writing, of any expiration, reduction or cancellation of the bond as required by this subsection, not later than ten days before the expiration, reduction or cancellation takes effect.

(h) All exhibitors shall comply with the requirements of Section 3.09.120 regarding care and maintenance of any dangerous wild animal.

(i) All exhibitors shall be required to obtain an animal exhibition license pursuant to Section 3.09.020 of the Code of the City of Wichita.

SECTION 3. Section 6.08.060 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

Sec. 6.08.060. Authorization.

- (a) ~~Environmental Services~~ The Chief of Police or designee shall make such rules and regulations as shall be reasonable and necessary to carry out the provisions of this chapter. This shall include the necessary forms, first aid and medical protocols, and informational material necessary for the registration of exhibitors, conduct of exhibitions and enforcement.
- (b) ~~Environmental Services~~ The Chief of Police or designee shall require the filing of bite reports pertaining to dangerous wild animals consistent with those of Chapter 6.04.
- (c) The ~~health officer~~ Chief of Police or designee shall be responsible for the enforcement of this chapter and is authorized to make such investigation, to issue notices, orders and directions as are necessary for such enforcement, and shall register exhibitors as herein required.

SECTION 4. Section 6.08.070 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

Sec. 6.08.070. Hearings.

Any person affected by any interpretation or requirement of ~~Environmental Services~~ Animal Services or any administrative penalty ordered under this chapter may, within ten days of such, request in writing a hearing before the ~~health officer~~ Chief of Police or designee to show cause why such should be modified or made to not apply to such person. The ~~health officer~~ Chief of Police or designee ~~or his or her designee~~ shall hold the requested hearing as soon as practicable after receiving the request, at which time the person affected shall have an opportunity to be heard. At the conclusion of the hearing, the health officer shall issue a written response to the person.

SECTION 5. The originals of Sections 6.08.010; 6.08.030; 6.08.060 and 6.08.070 and of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 6. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_,

2011.

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Carl Brewer, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Gary E. Rebenstorf, Director of Law

First Published in The Wichita Eagle on May 27, 2011

OCA #083303

ORDINANCE NO.49-011

AN ORDINANCE AMENDING SECTIONS 6.08.010; 6.08.030; 6.08.060 AND 6.08.070 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO EXOTIC ANIMALS AND REPEALING THE ORIGINALS OF SAID SECTIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Section 6.08.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Sec. 6.08.010. Definitions.

As used in this chapter:

'Dangerous wild animals' means, including, but not limited to, coyotes, bobcats, foxes, wolves, lions, tigers, leopards, jaguars, cheetahs, mountain lions, or any hybrid thereof; bears or any hybrid thereof; other carnivorous animals of a similar nature and species and venomous reptiles.

'Exhibitor' means a person whose business involves the showing or displaying of animals to the public and who is a Class C USDA licensee as defined by 9 C.F.R. § 1.1, as amended.

'Health officer' means the director of Environmental Services or his or her authorized representative.

'Secondary perimeter' means a fence, rope, elevation separation such as a stage, or some other physical arrangement as may be approved by the health officer Chief of Police or designee by which the public is kept at such a distance from an animal as to avoid accidental or intentional contact with animals.

'USDA license' means a person licensed as a breeder (Class A), dealer (Class B) or exhibitor (Class C) in accordance with 9 C.F.R. § 1.1, et seq., as amended.

'USDA licensed facility' means a facility for the housing of dangerous wild animals operated by a person with an USDA license.

'Veterinary clinic' means a facility for the care and treatment of animals operated by a doctor of veterinary medicine licensed by the state of Kansas.

SECTION 2. Section 6.08.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Sec. 6.08.030. Exhibition requirements.

(a) Only Class C licensees who have registered as exhibitors as required by this chapter shall be allowed to exhibit dangerous wild animals within the city.

(b) At least one Class C licensee must be present at all times at each exhibition and in direct physical control of the dangerous wild animals being exhibited.

- (c) Public contact with dangerous wild animals shall be prevented by a secure enclosure with a secondary perimeter to avoid public contact with the animals.
- (d) Exhibitors must notify Environmental Services the Supervisor of Animal Control twenty business days prior to any exhibition within the city. The notice shall be in such manner as determined by the health officer Supervisor of Animal Control and shall include the date, time and location of each exhibition.
- (e) Prior to the conduct of any exhibition in the city, exhibitors shall file with the Environmental Services copies of USDA permits applicable to these regulations. Upon the request of the health officer, prior to, during or following an exhibition, exhibitors shall have available and present to the Environmental Services Supervisor of Animal Control or state health officials copies of health records, vaccination records and ownership records for the dangerous wild animals exhibited.
- (f) Exhibitors shall have a written protocol for first aid and medical attention in the event of an injury caused during exhibitions. Exhibitors shall maintain appropriate first aid equipment and supplies at an exhibition.
- (g) Exhibitors shall maintain liability insurance covering any exhibition in the city in the amount of at least two hundred fifty thousand dollars (\$250,000) and naming the city and Environmental Services as additional insureds insured. A copy of the insurance shall be provided to Environmental Services the City prior to the exhibition.  
Any insurer shall notify Environmental Services the City in writing, of any expiration, reduction or cancellation of liability insurance required by this subsection not later than ten days before the expiration, reduction or cancellation takes effect. Any surety company who secures the performance of a bond shall notify Environmental Services the City in writing, of any expiration, reduction or cancellation of the bond as required by this subsection, not later than ten days before the expiration, reduction or cancellation takes effect.
- (h) All exhibitors shall comply with the requirements of Section 3.09.120 regarding care and maintenance of any dangerous wild animal.
- (i) All exhibitors shall be required to obtain an animal exhibition license pursuant to Section 3.09.020 of the Code of the City of Wichita.

SECTION 3. Section 6.08.060 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

Sec. 6.08.060. Authorization.

- (a) Environmental Services The Chief of Police or designee shall make such rules and regulations as shall be reasonable and necessary to carry out the provisions of this chapter. This shall include the necessary forms, first aid and medical protocols, and informational material necessary for the registration of exhibitors, conduct of exhibitions and enforcement.
- (b) Environmental Services The Chief of Police or designee shall require the filing of bite reports pertaining to dangerous wild animals consistent with those of Chapter 6.04.
- (c) The health officer Chief of Police or designee shall be responsible for the enforcement of this chapter and is authorized to make such investigation, to issue notices, orders and directions as are necessary for such enforcement, and shall register exhibitors as herein required.

SECTION 4. Section 6.08.070 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

Sec. 6.08.070. Hearings.

Any person affected by any interpretation or requirement of Environmental Services Animal Services or any administrative penalty ordered under this chapter may, within ten days of such, request in writing a hearing before the health officer Chief of Police or designee to show cause why such should be modified or made to not apply to such person. The health officer Chief of Police or designee or his or her designee shall hold the requested hearing as soon as practicable after receiving the request, at which time the person affected shall have an opportunity to be heard. At the conclusion of the hearing, the health officer shall issue a written response to the person.

SECTION 5. The originals of Sections 6.08.010; 6.08.030; 6.08.060 and 6.08.070 and of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 6. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper. PASSED by the governing body of the City of Wichita, Kansas, this 24th day of May, 2011.

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Carl Brewer, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Gary E. Rebenstorf, Director of Law



**City of Wichita  
City Council Meeting  
May 17, 2011**

**TO:** Mayor and City Council

**SUBJECT:** Southeast Boulevard Bridge at the Drainage Canal (District III)

**INITIATED BY:** Department of Public Works & Utilities

**AGENDA:** New Business

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**Recommendations:** Approve the project.

**Background:** The 2009-2018 Capital Improvement Program (CIP) adopted by the City Council includes a project to rehabilitate the Southeast Boulevard Bridge at the Drainage Canal near the I-135 Freeway. District III Advisory Board considered the project on May 4, 2011. The Board voted 8-0 to recommend approval of the project.

**Analysis:** The work will consist of restoring the bearing devices that support the bridge deck, reconstructing the abutments, replacing the expansion system and upgrading the guard fence to current safety standards. The project is planned to begin this summer and be completed by year-end. The bridge will be closed to traffic during the construction period.

**Financial Considerations:** On August 24, 2010, the City Council approved \$95,000 for the preparation of construction plans. The project budget is \$1,000,000 for a total budget of \$1,095,000. The funding source is General Obligation Bonds. Funding is included in the 2009-2018 CIP.

**Goal Impact:** This project addresses the Public Safety and Efficient Infrastructure goals by rehabilitating a bridge on an important transportation route.

**Legal Considerations:** The Law Department has approved the amending ordinance as to legal form.

**Recommendation/Actions:** It is recommended that the City Council approve the project, place the amending ordinance on first reading and authorize the necessary signatures.

**Attachments:** Map, CIP sheet and ordinance.

Published in the Wichita Eagle on May 27, 2011

ORDINANCE NO. 49-012

AN ORDINANCE AMENDING ORDINANCE NO. **48-817** OF THE CITY OF WICHITA, KANSAS DECLARING **THE SOUTHEAST BOULEVARD BRIDGE AT THE DRAINAGE CANAL (472-84923)** TO BE A MAIN TRAFFICWAY WITHIN THE CITY OF WICHITA KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF THE SAME.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS;

SECTION 1. Section 2 of Ordinance No. **48-817** is hereby amended to read as follows:

“SECTION 2. It is hereby deemed and declared to be necessary by the governing body of the City of Wichita, Kansas, to make improvements to **the Southeast Boulevard Bridge at the Drainage Canal (472-84923)** as a main trafficway in the following particulars:

The design and construction of a bridge as necessary for a major traffic facility.”

SECTION 2. SECTION 3 of Ordinance No. **48-817** is hereby amended to read as follows:

“SECTION 3. The cost of the above described improvements is estimated to be **One Million Ninety-Five Thousand Dollars (\$1,095,000)** exclusive of the cost of interest on borrowed money, with the total paid by the City of Wichita. Said City cost, when ascertained, shall be borne by the City of Wichita at large by the issuance of General Obligation Bonds under the authority of K.S.A. 12-689.”

SECTION 3. The original SECTIONS 2 and 3 of Ordinance No. **48-817** are hereby repealed.

SECTION 4. That the City Clerk shall make proper publication of this ordinance, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 24th day of May, 2011.

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Carl Brewer, Mayor

ATTEST:

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Karen Sublett, City Clerk

(SEAL)

APPROVED AS TO FORM:

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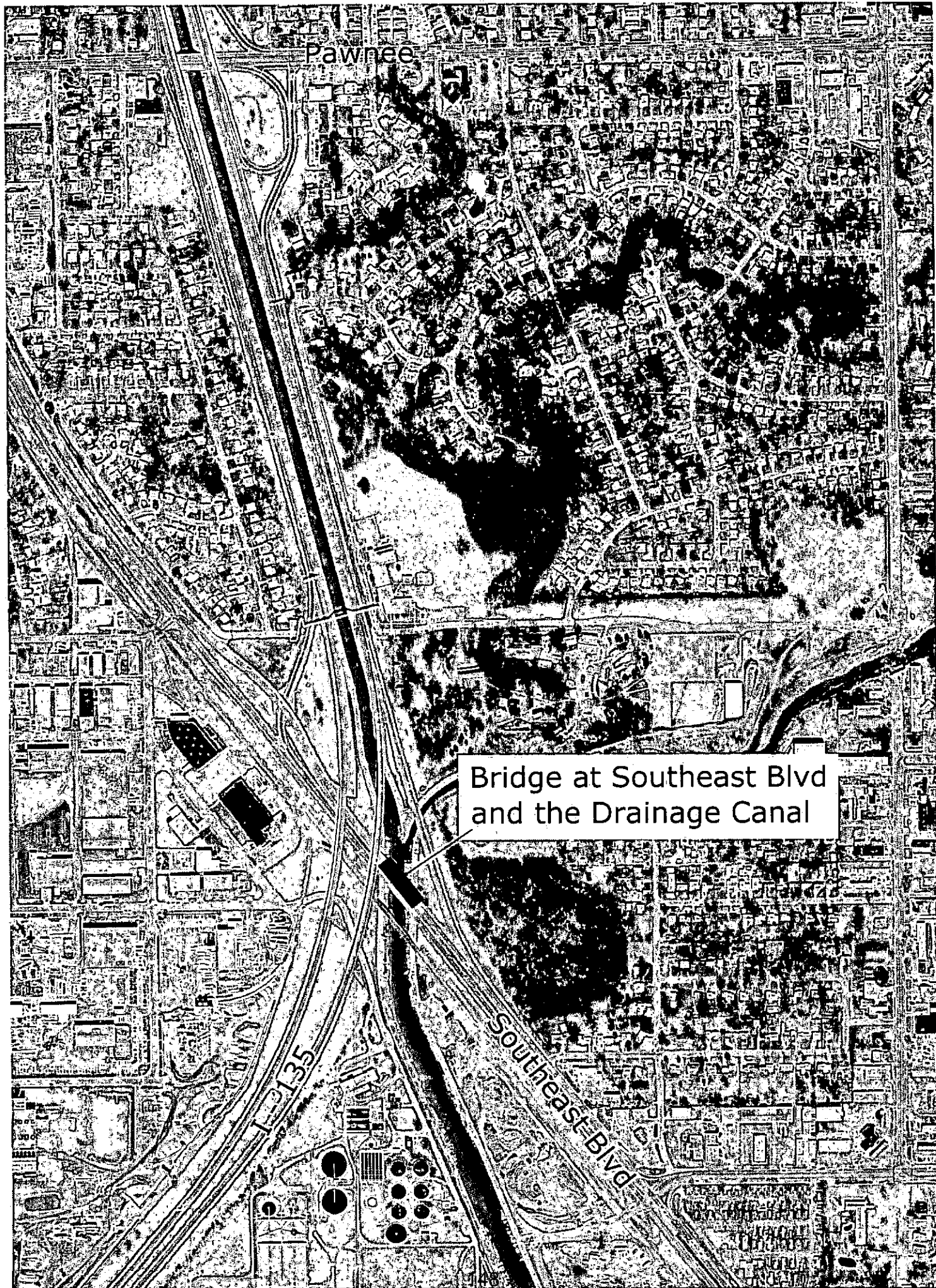
Gary E. Rebenstorf, Director of Law

Pawnee

Bridge at Southeast Blvd  
and the Drainage Canal

I-2135

Southeast Blvd



# CAPITAL IMPROVEMENT

## PROJECT AUTHORIZATION

### CITY OF WICHITA

USE:

To Initiate Project

To Revise Project

X

1. Prepare in triplicate
2. Send original & 2 copies to budget.
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department.
6. Send 3rd copy to Controller.

1. Initiating Department Public Works & Utilities	2. Initiating Division Eng & Arch	3. Date 4/27/2011	4. Project Description & Location Southeast Boulevard Bridge at Drainage Canal
5. CIP Project Number B-	6. Accounting Number	7. CIP Project Date (Year) 2011	8. Approved by WCC Date
9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised	
As Required			
12. Project Cost Estimate			
ITEM	GO	SA	KDOT
Right of Way			
Paving, grading & const.			
Bridge	\$1,095,000		\$1,095,000
Drainage			
Sanitary Sewer			
Sidewalk			
Water			
Traffic Signals			
Totals	\$1,095,000		\$1,095,000
Total CIP Amount Budgeted			
Total Prelim. Estimate			

Yes	No

Platting Required  
Lot Split  
Petition  
Ordered by WCC

X

Remarks:

472-84923

13. Recommendation: Approve the project and place the amending ordinance on first reading

Division Head

Department Head

Budget Officer

City Manager

Date

Date

City of Wichita  
City Council Meeting  
May 17, 2011

**TO:** Mayor and City Council

**SUBJECT:** Petition to repair and upgrade drainage detention ponds to serve Hampton Square and Prairie Pointe Additions (north of 37<sup>th</sup> Street North, west of Maize)  
(District V)

**INITIATED BY:** Department of Public Works & Utilities

**AGENDA:** New Business

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**Recommendation:** Approve the petition.

**Background:** In 2004, a storm water drain was constructed to serve Hampton Square and Prairie Pointe Additions. The project included the construction of two ponds to detain storm water flowing through the development. Since that time, erosion has threatened the integrity of the system. A petition has been submitted to modify and upgrade the ponds. The signatures on the petition represent 31 of 62 (50%) resident owners and 83% of the improvement district area. District V Advisory Board sponsored a May 2, 2011, neighborhood hearing on the project. The Board voted 7-0 to recommend approval of the project.

**Analysis:** The proposed project will repair erosion and install an erosion control blanket with crushed stone around the ponds. This will minimize the amount of future erosion caused by rain, wind and wave action.

**Financial Considerations:** Estimated project cost is \$108,000, with the total paid by special assessments. The method of assessment is the fractional basis. The estimated cost varies from \$1,500 to \$9,100 per lot in the commercial area platted as Hampton Square Addition. The estimated cost in Prairie Pointe Addition, which is a residential development, is \$1,600 per lot and \$10,200 for a platted reserve.

**Goal Impact:** This project addresses the Efficient Infrastructure goal by improving a drainage system in a developed area.

**Legal Considerations:** The petition and resolution have been approved as to form by the Law Department.

**Recommendation/Action:** It is recommended that the City Council approve the petition, adopt the resolution and authorize the necessary signatures.

**Attachments:** Map, CIP sheet, assessment roll, petition and resolution.

## RESOLUTION NO. 11-120

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING THE REPAIR AND UPGRADE OF STORM WATER DRAIN NO. 231 (NORTH OF 37TH ST. NORTH, WEST OF MAIZE) 468-84762 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE REPAIR AND UPGRADE OF STORM WATER DRAIN NO. 231 (NORTH OF 37TH ST. NORTH, WEST OF MAIZE) 468-84762 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to repair and upgrade Storm Water Drain No. 231 (north of 37th St. North, west of Maize) 468-84762.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be One Hundred Eight Thousand Dollars (\$108,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after December 1, 2010, exclusive of the costs of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

HAMPTON SQUARE ADDITION

Lots 1 through 9, Block 1

PRAIRIE POINTE ADDITION

Lots 1 through 10, Block 3

Lots 1 through 12 and 14 through 33, Block 4

Reserve "B"

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a fractional basis:

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lot 1 and Lot 8, Block 1; HAMPTON SQUARE ADDITION shall each pay 420/10000 of the total cost payable by the improvement district; Lots 2 through 7, Block 1; HAMPTON SQUARE ADDITION shall each pay 140/10000 of the total cost payable by the improvement district; Lot 9, Block 1; HAMPTON SQUARE ADDITION shall pay 1117/10000 of the total cost payable by the improvement district; Lots 1 through 10, Block 3; and Lots 1 through 12, and 14 through 33, Block 4; PRAIRIE POINTE ADDITION shall each pay 149/10000 of the total cost payable by the improvement district; and RESERVE B; PRAIRIE POINTE ADDITION shall pay 945/10000 of the total cost payable by the improvement district.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq. as amended.

SECTION 8. Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 17<sup>th</sup> day of May, 2011.

---

CARL BREWER, MAYOR

ATTEST:

---

KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

---

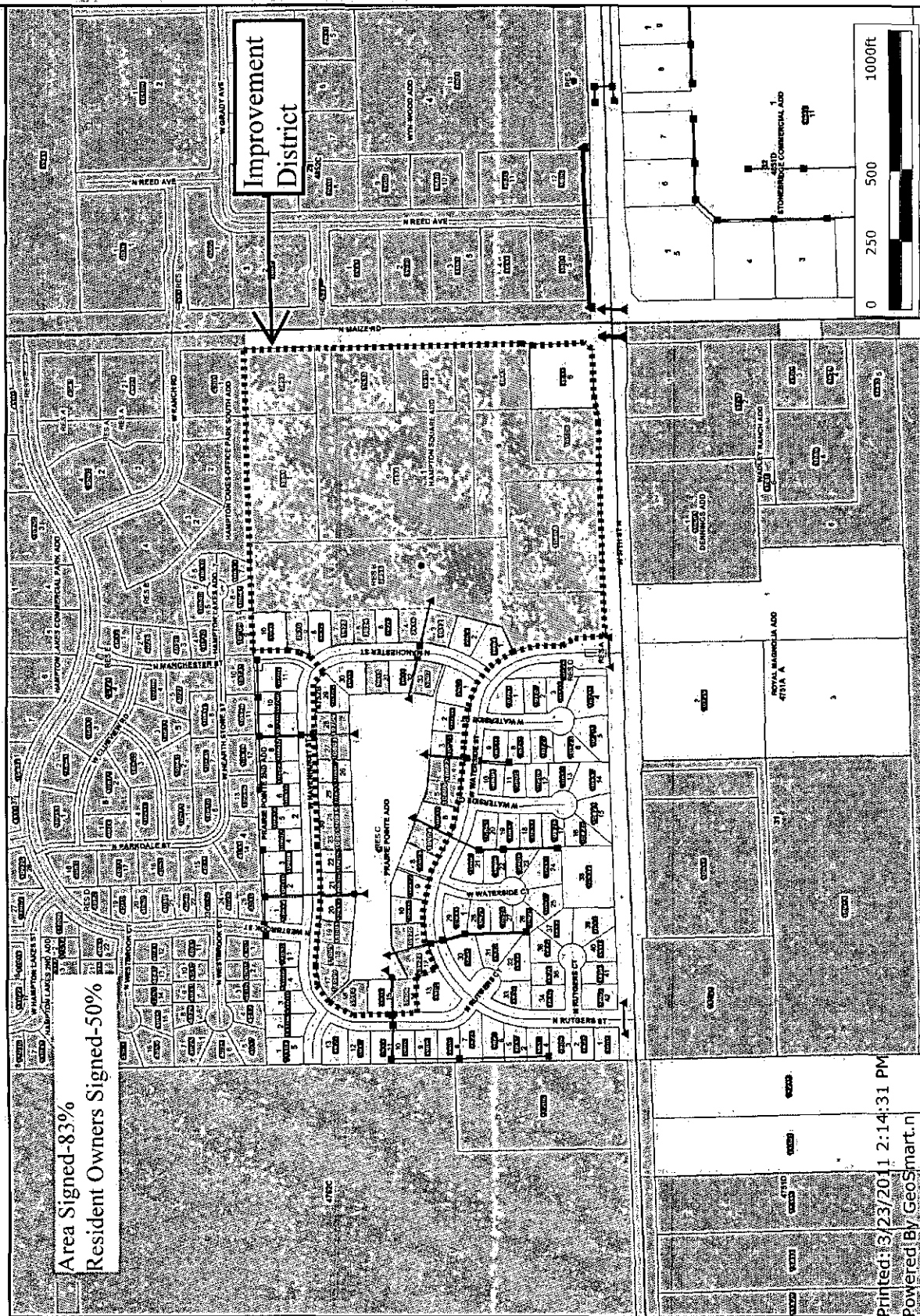
GARY E. REBENSTORF  
DIRECTOR OF LAW





Area Signed-83%  
Resident Owners Signed-50%

Improvement  
District



Label Address	Label SubDiv	Label SubDiv	Label SubDiv	Storm Conduit	Storm Structures	Inlet	Manhole	Outfall	Other	Property parcels	Roads	State Highway	US Federal Highway	Interstate	KTA	Arterial	Collector	Minor	Ramp	Township and Range	Section	Quarter Section	Parks	Airports	City Limits	Andale	Bel Aire	Bentley	Cheney	Clearwater	Codwich	Derby	Eastborough
Label SubDiv Lot Num	Label SubDiv Block Num	Label SubDiv Block Num	Label SubDiv Block Num	Storm Conduit	Storm Structures	Inlet	Manhole	Outfall	Other	Property parcels	Roads	State Highway	US Federal Highway	Interstate	KTA	Arterial	Collector	Minor	Ramp	Township and Range	Section	Quarter Section	Parks	Airports	City Limits	Andale	Bel Aire	Bentley	Cheney	Clearwater	Codwich	Derby	Eastborough

Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, fineness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the usual presentations accessible through these web pages.



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# CAPITAL IMPROVEMENT

## PROJECT AUTHORIZATION

### CITY OF WICHITA

- USE:
- To Initiate Project ☒ X
- To Revise Project ☐
1. Prepare in triplicate
  2. Send original & 2 copies to budget.
  3. City Manager to sign all copies.
  4. File original w/ initiating resolution in City Clerk.
  5. Return 2nd copy to initiating department.
  6. Send 3rd copy to Controller.

1. Initiating Department Public Works & Utilities	2. Initiating Division Eng & Arch	3. Date 4/27/2011	4. Project Description & Location Storm Water Drain repair and upgrade in Hampton Square and Prairie Pointe Additions
5. CIP Project Number NI-200424	6. Accounting Number	7. CIP Project Date (Year) 2011	8. Approved by WCC Date
9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised	
As Required			
12. Project Cost Estimate			
ITEM	GO	SA	OTHER * TOTAL
Right of Way			
Paving, grading & const.			
Bridge & Culverts			
Drainage		\$108,000	\$108,000
Sanitary Sewer			
Sidewalk			
Water			
Other			
Totals		\$108,000	\$108,000
Total CIP Amount Budgeted			
Total Prelim. Estimate			

12A.

Platting Required ☐ Yes ☐ No

Lot Split ☐ Yes ☐ No

Petition ☒ Yes ☐ No

Ordered by WCC ☐ Yes ☐ No

Remarks:



83 % Petition

\* Storm Water Utility

SWD 231 Repair & Upgrade

468-84762

13. Recommendation: Approve the petition and resolution

Division Head 	Department Head 	Budget Officer	City Manager
Date	Date	Date	Date

Estimated assessments for Erosion Control Improvements to serve Hampton Square Addition and a part of Prairie Pt										04/25/11	Cost	\$108,000.00						
Key No.	Property Owner	Property Address	Legal Description	Area (sq. ft.)	Estimated Assessment*	Annual Payment**	Resident Owners	Area	Rate	1708119	Area	Res. Own						
										0.063227445	Signed	Signed						
<b>HAMPTON SQUARE ADD</b>																		
D 59926	HAMPTON SQUARE LLC	7926 W 21ST ST N WICHITA KS 67205	LOT 1, BLOCK 1	113415	\$4,536	\$437	1				113415	1						
D 59927	HAMPTON SQUARE LLC	7926 W 21ST ST N WICHITA KS 67205	LOT 2, BLOCK 1	60027	\$1,512	\$146	repeat				60027	repeat						
D 59928	HAMPTON SQUARE LLC	7926 W 21ST ST N WICHITA KS 67205	LOT 3, BLOCK 1	52627	\$1,512	\$146	repeat				52627	repeat						
D 59929	HAMPTON SQUARE LLC	7926 W 21ST ST N WICHITA KS 67205	LOT 4, BLOCK 1	52537	\$1,512	\$146	repeat				52537	repeat						
D 59930	HAMPTON SQUARE LLC	7926 W 21ST ST N WICHITA KS 67205	LOT 5, BLOCK 1	50019	\$1,512	\$146	repeat				50019	repeat						
D 59931	COMMUNITY BANK OF WICHITA INC	11330 E 21ST WICHITA KS 67206	LOT 6, BLOCK 1	51657	\$1,512	\$146	1											
D 59932	HAMPTON SQUARE LLC	7926 W 21ST ST N WICHITA KS 67205	LOT 7, BLOCK 1	48006	\$1,512	\$146	repeat				48006	repeat						
D 59933	HAMPTON SQUARE LLC	7926 W 21ST ST N WICHITA KS 67205	LOT 8, BLOCK 1	134991	\$4,536	\$437	repeat				134991	repeat						
D 59934	HAMPTON SQUARE LLC	7926 W 21ST ST N WICHITA KS 67205	THAT PART LOT 9 BEG NW COR LOT 5 TH W 455.02 FT S 113.99 FT E 195 FT SE 195 FT S 339.61 FT E 60 FT N 240 FT E 200 FT N TO BEG, BLOCK 1	92348	\$2,950	\$284	repeat				92348	repeat						
D 599340001	HAMPTON SQUARE LLC	7926 W 21ST ST N WICHITA KS 67205	THAT PART LOT 9 BEG SE COR LOT 2 TH W 695.02 FT S 560.74 FT E TO NE COR LOT 5 N 60 FT W 240 FT N 440 FT E 240 FT N 60 FT TO BEG BLOCK 1	285293	\$9,114	\$878	repeat				285293	repeat						
<b>PRAIRIE POINTE ADD</b>																		
D 59862	CARTER WILLIAM W	3904 N MANCHESTER ST	LOT 1, BLOCK 3	14816	\$1,609	\$155	1											
D 59863	KING, CASEY L & DEENA M	3908 N MANCHESTER ST	LOT 2, BLOCK 3	12236	\$1,609	\$155	2											
D 59864	HAMPTON SQUARE LLC	7926 W 21ST ST N WICHITA KS 67205	LOT 3, BLOCK 3	12090	\$1,609	\$155	repeat				12090	repeat						
D 59865	HAMPTON SQUARE LLC	7926 W 21ST ST N WICHITA KS 67205	LOT 4, BLOCK 3	11896	\$1,609	\$155	repeat				11896	repeat						
D 59866	STEELE BRYAN & ABIGAIL	3920 N MANCHESTER ST	LOT 5, BLOCK 3	9600	\$1,609	\$155	2											
D 59867	STECKLEIN ANDY D	3924 N MANCHESTER ST	LOT 6, BLOCK 3	9600	\$1,609	\$155	1				9600	1						
D 59868	ELSEN RICKY C & MELISSA A	3928 N MANCHESTER ST	LOT 7, BLOCK 3	9740	\$1,609	\$155	2				9740	2						
D 59869	BRADFORD MICHAEL C & PAULA M	3932 N MANCHESTER ST	LOT 8, BLOCK 3	11750	\$1,609	\$155	2					1						
D 59870	REDDICK ANDY S & LISA M	3936 N MANCHESTER ST	LOT 9, BLOCK 3	11128	\$1,609	\$155	2				11128	2						
D 59871	BUNTYN JOE L & MARY L	3940 N MANCHESTER ST	LOT 10, BLOCK 3	15964	\$1,609	\$155	2											
D 59872	POWERS, LYLE A & TAMMIE K III	3903 N MANCHESTER ST	LOT 1, BLOCK 4	15356	\$1,609	\$155	2											
D 59873	SEARS CHET A & ASHLEY R TRUSSELL	10708 W WATERSIDE ST	LOT 2, BLOCK 4	11784	\$1,609	\$155	2					1						
D 59874	DE PUTTER BENJAMIN D & KIMBERLY A	10712 W WATERSIDE ST	LOT 3, BLOCK 4	11100	\$1,609	\$155	2											
D 59875	WANG KUANG LU & KATHY GEE	10802 W WATERSIDE ST	*LOT 4, BLOCK 4	10200	\$1,609	\$155	2				10200	2						
D 59876	PLANT MARK R & ELIZABETH D ECK	10806 W WATERSIDE ST	LOT 5, BLOCK 4	10200	\$1,609	\$155	2				10200	2						
D 59877	COETHO SHANE A & MARCEY L CORUM	10810 W WATERSIDE ST	LOT 6, BLOCK 4	11421	\$1,609	\$155	2											
D 59878	JENKINS JACOB D PO BOX 807 EMPORIA KS 66801	10904 W WATERSIDE ST	LOT 7, BLOCK 4	11711	\$1,609	\$155	nr				11711	nr						
D 59879	SHUCK MICHAEL W	10908 W WATERSIDE ST	LOT 8, BLOCK 4	11062	\$1,609	\$155	1											
D 59880	REE LOGAN N & CASSIE M	10912 W WATERSIDE ST	LOT 9 EXC E 8.5 FT, BLOCK 4	10807	\$1,609	\$155	2					1						
D 59881	HALLBAUER HOLLI	10916 W WATERSIDE ST	LOT 10, BLOCK 4	11159	\$1,609	\$155	1											
D 59882	OSBORN BRYAN K & DIANA K	10920 W WATERSIDE ST	LOT 11, BLOCK 4	12489	\$1,609	\$155	2				12489	2						
D 59883	HAMPTON SQUARE LLC	7926 W 21ST ST N WICHITA KS 67205	LOT 12, BLOCK 4	11320	\$1,609	\$155	repeat				11320	repeat						
D 59885	HAMPTON SQUARE LLC	7926 W 21ST ST N WICHITA KS 67205	LOT 14, BLOCK 4	10200	\$1,609	\$155	repeat				10200	repeat						
D 59886	AU HOW MENG	3910 N RUTGERS ST	LOT 15, BLOCK 4	10800	\$1,609	\$155	1											
D 59887	RIBEIRO JOAO LUIS DA SILVA 1914 RUTGERS WICHITA KS 67212	3914 N RUTGERS ST	LOT 16, BLOCK 4	11370	\$1,609	\$155	1				11370	1						
D 59888	DOYLE TYLER & MEGHAN	11009 W HAVENHURST ST	LOT 17, BLOCK 4	9947	\$1,609	\$155	2				9947	2						
D 59889	SCHRADER SARAH M	11005 W HAVENHURST ST	LOT 18, BLOCK 4	9600	\$1,609	\$155	1				9600	1						
D 59890	SANFORD JEREMY R & OLGA KERECHES	11001 W HAVENHURST ST	LOT 19, BLOCK 4	9608	\$1,609	\$155	2				9608	2						

Estimated assessments for Erosion Control Improvements to serve Hampton Square Addition and a part of Prairie Pk										
Key No.	Property Owner	Property Address	Legal Description	Area (sq. ft.)	Estimated Assessment*	Annual Payment**	Resident Owners	Area	Rate	Res. Own
								17081191	0.0632274451	
D 59891	STAIB NICHOLAS L & KAMI J	10913 W HAVENHURST ST	LOT 20, BLOCK 4	11071	\$1,609	\$155	2			
D 59892	WATERS RICHARD E & MARSHA K 3026 EXCHANGE WICHITA KS 67217		LOT 21, BLOCK 4	10328	\$1,609	\$155	2			
D 59893	STAVER MELISSA A & BRENT W	10905 W HAVENHURST ST	LOT 22, BLOCK 4	9606	\$1,609	\$155	2			1
D 59894	LEGLER RYAN	10901 W HAVENHURST ST	LOT 23, BLOCK 4	9600	\$1,609	\$155	1			9600 1
D 59895	MENDOZA CHRISTIE	10815 W HAVENHURST ST	LOT 24, BLOCK 4	9600	\$1,609	\$155	1			9600 1
D 59896	MARQUEZ BEN & ASHLEE	10811 W HAVENHURST ST	LOT 25, BLOCK 4	9600	\$1,609	\$155	2			1
D 59897	SHANK RICHARD J & WEINING TAM	10807 W HAVENHURST ST	LOT 26, BLOCK 4	9600	\$1,609	\$155	2			1
D 59898	WOOSLEY REBECCA J	10803 W HAVENHURST ST	LOT 27, BLOCK 4	10200	\$1,609	\$155	1			10200 1
D 59899	NELSON, DAVID L	10709 W HAVENHURST ST	LOT 28, BLOCK 4	10200	\$1,609	\$155	1			10200 1
D 59900	DIEKER KURT A	10703 W HAVENHURST ST	LOT 29, BLOCK 4	13183	\$1,609	\$155	1			
D 59901	VENZOR FRANCISCO A & JILLIAN L 2012 N WOOD CT WICHITA KS 67212		LOT 30, BLOCK 4	13146	\$1,609	\$155	2			
D 59902	CAMPBELL JOYCE R 7887 N LA CHOLLA BLVD TUCSON AZ 85741	3915 N MANCHESTER ST	LOT 31, BLOCK 4	10080	\$1,609	\$155	nr			10080 nr
D 59903	MANS, AGATHA T	3911 N MANCHESTER ST	LOT 32, BLOCK 4	10829	\$1,609	\$155	1			
D 59904	SMITH ALLAN D & CINDY L	3907 N MANCHESTER ST	LOT 33, BLOCK 4	10583	\$1,609	\$155	2			10583 2
D 59923	HAMPTON LAKES MASTER ASSOCIATION 7926 W 21ST WICHITA KS 67205	3858 N MANCHESTER ST	RESERVE B	300819	\$10,206	\$983	1			300819 1
Totals:				1708119	\$108,000		62			1411444 31
Abbreviations:										
etal. = and others										
etux. = and wife										
etvir. = and husband										
nr = non resident										
* Estimated assessment for the storm water drainage construction based on a fractional basis excluding inflation, and/or temporary financing.										
							Area Signed		82.63%	
							Resident Owners Signed		50.00%	
** Estimated Annual escrow payment based on 5% bond sale rate, and spread over 15 years										
BREAKDOWN OF PROJECT COSTS										
Amount assessed to the improvement district				\$108,000						
Add:				\$0						
Total Estimated project cost				\$108,000						

**STORM WATER DRAINAGE PETITION**

To the Mayor and City Council  
Wichita, Kansas

**RECEIVED**

**MAR 21 '11**

Dear Council Members:

**CITY CLERK OFFICE**

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

**HAMPTON SQUARE ADDITION**

Lots 1 through 9, Block 1;

**PRAIRIE POINTE ADDITION**

Lots 1 through 10, Block 3;

Lots 1 through 12 and 14 through 33, Block 4;

Reserve "B"

do hereby petition pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended, as follows:

- 468-84762
- (a) That there be constructed storm water drain improvements to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.
  - (b) That the estimated and probable cost of the foregoing improvements is One Hundred Eight Thousand Dollars (\$108,000.00) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth may be increased to include temporary interest or finance costs incurred during the course of design and construction of the project, and also may be increased at the pro rata rate of 1 percent per month from and after December 1, 2010.
  - (c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign,

repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

- (d) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis. The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value:

Lot 1 and Lot 8, Block 1; Hampton Square Addition shall each pay 420/10000 of the total cost payable by the improvement district; Lots 2 through 7, Block 1; Hampton Square Addition shall each pay 140/10000 of the total cost payable by the improvement district; Lot 9, Block 1; Hampton Square Addition shall pay 1117/10000 of the total cost payable by the improvement district; Lots 1 through 10, Block 3; and Lots 1 through 12, and 14 through 33, Block 4; Prairie Pointe Addition shall each pay 149/10000 of the total cost payable by the improvement district; and Reserve B; Prairie Pointe Addition shall pay 945/10000 of the total cost payable by the improvement district.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

2. It is requested that the improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature in order to form one public improvement project.
3. The petition is submitted pursuant to subsection (c) of K.S.A. 12-6a04, and amendments thereto and as owners of 100% of the properties proposed to be included in the improvement district, we acknowledge that the proposed improvement district does not include all properties which may be deemed to benefit from the proposed improvement.
4. That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first.
5. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than

one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use if and when such improvements are necessary to serve any building that may be constructed on the real property after the date on this petition.

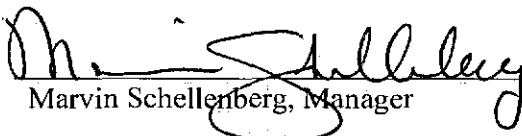
WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
-------------------	-----------	------

**HAMPTON SQUARE ADDITION**

Lots 1 through 5, and 7 through 9, Block 1;  
Hampton Square Addition, an addition to  
Wichita, Sedgwick County, Kansas.

**HAMPTON SQUARE, LLC**

By:  1-7-11  
Marvin Schellenberg, Manager



WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
-------------------	-----------	------

**HAMPTON SQUARE ADDITION**

**COMMUNITY BANK OF WICHITA INC.**

Lot 6, Block 1; Hampton Square Addition, an addition to Wichita, Sedgwick County, Kansas.

By: \_\_\_\_\_

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
-------------------	-----------	------

**PRAIRIE POINTE ADDITION**

**WILLIAM W. CARTER**

Lot 1, Block 3; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
-------------------	-----------	------

**PRAIRIE POINTE ADDITION**

Lot 2, Block 3; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.

**CASEY L. & DEENA M. KING**

\_\_\_\_\_  
\_\_\_\_\_

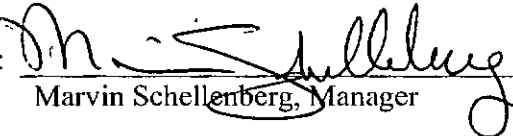
WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
-------------------	-----------	------

**PRAIRIE POINTE ADDITION**

**HAMPTON SQUARE, LLC**

Lots 3 and 4, Block 3; Lots 12, 14, Block 4; Prairie  
Pointe Addition, an addition to Wichita, Sedgwick  
County, Kansas.

By:  1-7-11  
Marvin Schellenberg, Manager

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
-------------------	-----------	------

**PRAIRIE POINTE ADDITION**

Lot 5, Block 3; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.

**BRYAN & ABIGAIL STEELE**

\_\_\_\_\_  
\_\_\_\_\_

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

---

LEGAL DESCRIPTION

SIGNATURE

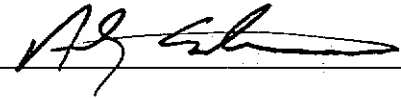
DATE

---

**PRAIRIE POINTE ADDITION**

**ANDY D. STECKLEIN**

Lot 6, Block 3; Prairie Pointe Addition, an addition  
to Wichita, Sedgwick County, Kansas.

 1/2/11

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

---

LEGAL DESCRIPTION

SIGNATURE

DATE

---

**PRAIRIE POINTE ADDITION**

**RICKY C. & MELISSA A. ELSEN**

Lot 7, Block 3; Prairie Pointe Addition, an addition  
to Wichita, Sedgwick County, Kansas.

Ricky C. Elsen 1-5-11

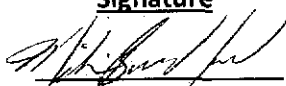
Melissa A. Elsen 1-5-11

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<b><u>PRAIRIE POINTE ADDITION</u></b> Lot 8, Block 3; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.	<b>MICHAEL C. &amp; PAULA M. BRADFORD</b>	

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing: **Hampton Square Addition – Storm Water Drainage Petition**

Lot 8 BIK 3

<u>ADDRESS</u>	<u>Printed Name</u>	<u>Signature</u>	<u>Date</u>
3932 N Manchester	Michael Bradford		1/7/11



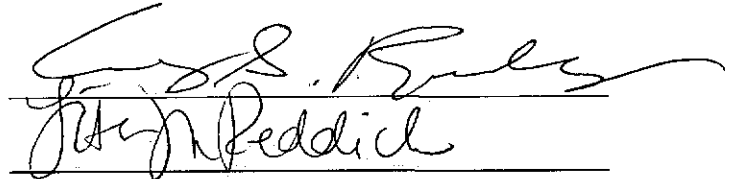
WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
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**PRAIRIE POINTE ADDITION**

Lot 9, Block 3; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.

**ANDY S. & LISA M. REDDICK**

Handwritten signatures of Andy S. and Lisa M. Reddick, written over two horizontal lines.



WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

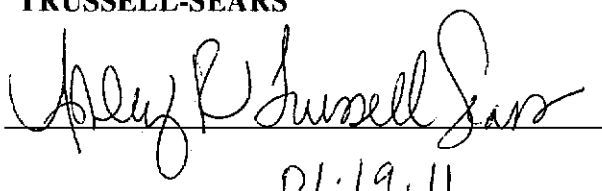
LEGAL DESCRIPTION	SIGNATURE	DATE
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**PRAIRIE POINTE ADDITION**

Lot 1, Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.

**LYLE A. POWERS III & TAMMIE K. POWERS**

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<b>PRAIRIE POINTE ADDITION</b> Lot 2, Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.	<b>CHET A. SEARS &amp; ASHLEY R. TRUSSELL-SEARS</b> 	 01.19.11

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<b><u>PRAIRIE POINTE ADDITION</u></b> Lot 3, Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.	<b>BENJAMIN D. &amp; KIMBERLY A. DEPUTTER</b>	

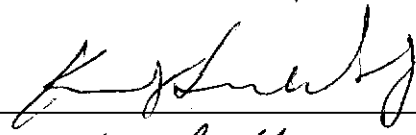

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
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**PRAIRIE POINTE ADDITION**

Lot 4, Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.

**KUANG LU WANG & KATHY GEE  
WANG**

	1/7/11
	1/7/11

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION

SIGNATURE

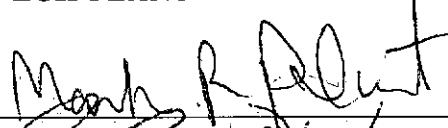
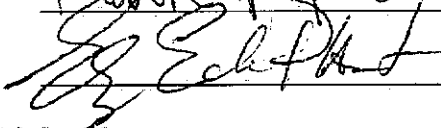
DATE

**PRAIRIE POINTE ADDITION**

Lot 5, Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.

**MARK R. PLANT & ELIZABETH D.**

**ECK-PLANT**

 11/7/11  
 1-7-11

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<b><u>PRAIRIE POINTE ADDITION</u></b> Lot 6, Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.	<b>SHANE A. COETHO &amp; MARCEY L. CORUM</b>	



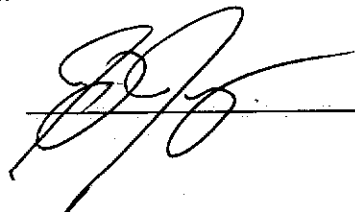
WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
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**PRAIRIE POINTE ADDITION**

Lot 7, Block 4, Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.

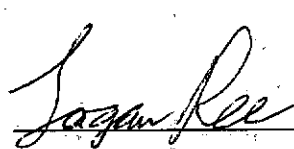
**JACOB D. JENKINS**

 1-15-11

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<b><u>PRAIRIE POINTE ADDITION</u></b> Lot 8, Block 4; and the E. 8.5' of Lot 9, Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.	<b>MICHAEL W. SHUCK</b>	

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<b><u>PRAIRIE POINTE ADDITION</u></b> Lot 9 exc the E. 8.5', Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.	<b>LOGAN N. &amp; CASSIE M. REE</b>  _____	

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<b><u>PRAIRIE POINTE ADDITION</u></b> Lot 10, Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.	<b>HOLLI HALLBAUER</b>	

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing:

LEGAL DESCRIPTION	SIGNATURE	DATE
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**PRAIRIE POINTE ADDITION**

Lot 11, Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.

**BRYAN K. & DIANA K. OSBORN**

Diana K. Osborn

LEGAL DESCRIPTION	SIGNATURE	DATE
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## HOW MENG AU

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

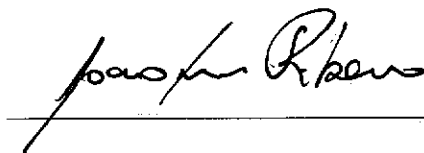
LEGAL DESCRIPTION	SIGNATURE	DATE
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**PRAIRIE POINTE ADDITION**

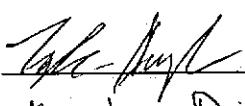
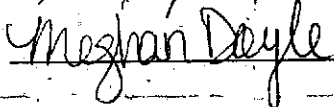
Lot 16, Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.

**JOAO LUIS DA SILVA RIBEIRO**

15 years 3.5%

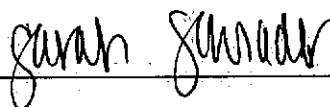
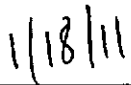
 01/07/11

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

<u>LEGAL DESCRIPTION</u>	<u>SIGNATURE</u>	<u>DATE</u>
<b><u>PRAIRIE POINTE ADDITION</u></b>	<b>TYLER &amp; MEGHAN DOYLE</b>	
Lot 17, Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.		1/16/10
		1/16/11



WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<b><u>PRAIRIE POINTE ADDITION</u></b> Lot 18, Block 4, Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.	<b>SARAH M. SCHRADER</b> 	

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

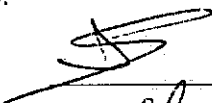

LEGAL DESCRIPTION	SIGNATURE	DATE
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**PRAIRIE POINTE ADDITION**

Lot 19, Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.

**JEREMY R. SANFORD & OLGA**

**KERECHES**

	12/30/2010
	12/30/2010

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
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**PRAIRIE POINTE ADDITION**

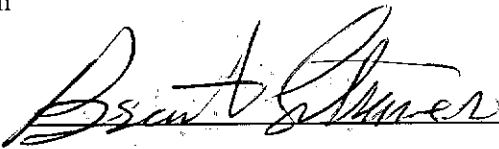
Lot 20, Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.

**NICHOLAS L. & KAMI J. STAIB**

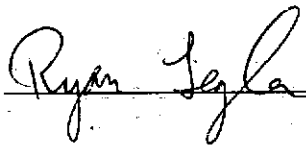
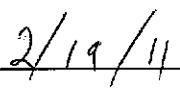
WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<b><u>PRAIRIE POINTE ADDITION</u></b> Lot 21, Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.	<b>DWAYNE A. JAKUB</b>	

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<b><u>PRAIRIE POINTE ADDITION</u></b> Lot 22, Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.	<b>MELISSA A. &amp; BRENT W. STAVER</b> 	

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<b><u>PRAIRIE POINTE ADDITION</u></b> Lot 23, Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.	<b>RYAN LEGLER</b> 	

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing:

<u>LEGAL DESCRIPTION</u>	<u>SIGNATURE</u>	<u>DATE</u>
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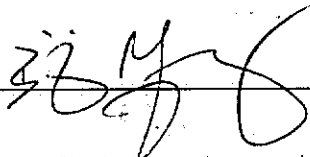
**PRAIRIE POINTE ADDITION**

Lot 24, Block 4, Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.

**CHRISTINE MENDOZA**

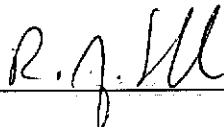
*Christine B. Mendoza* 1/7/10

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<b>PRAIRIE POINTE ADDITION</b> Lot 25, Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas:	<b>BEN &amp; ASHLEE MARQUEZ</b> 	



WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<b><u>PRAIRIE POINTE ADDITION</u></b> Lot 26, Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.	<b>RICHARD J. SHANK &amp; WEINING</b> 	<sup>TAN</sup> <del>TAM</del>

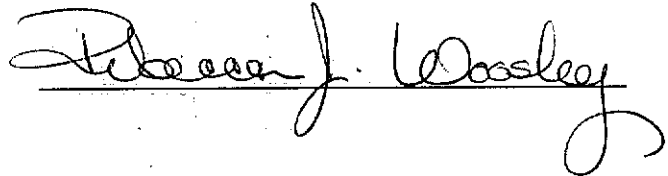
WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
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**PRAIRIE POINTE ADDITION**

Lot 27, Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.

**REBECCA J. WOOSLEY**

A handwritten signature in cursive script, reading "Rebecca J. Woosley", written over a horizontal line.

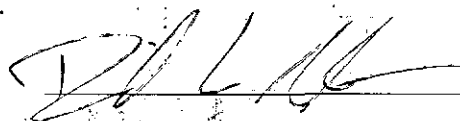
WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
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**PRAIRIE POINTE ADDITION**

Lot 28, Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.

**DAVID L. NELSON**

 12/23/10

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<b><u>PRAIRIE POINTE ADDITION</u></b> Lot 29, Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.	<b>KURT A. DIEKER</b>	

## LEGAL DESCRIPTION

DATE \_\_\_\_\_

**FRANCISCO A. & JILLIAN L. VENZOR**

*Journal of Management Inquiry* 18(6) 709–724  
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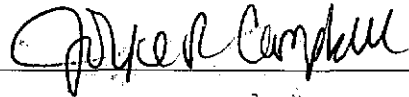
WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
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**PRAIRIE POINTE ADDITION**

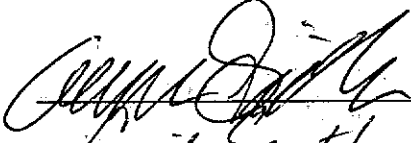
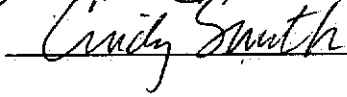
Lot 31, Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.

**JOYCE R. CAMPBELL**

 1/3/11



WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<b><u>PRAIRIE POINTE ADDITION</u></b> Lot 33, Block 4; Prairie Pointe Addition, an addition to Wichita, Sedgwick County, Kansas.	<b>ALLAN D. &amp; CINDY L. SMITH</b>  	19 Feb 2011 2-19-11



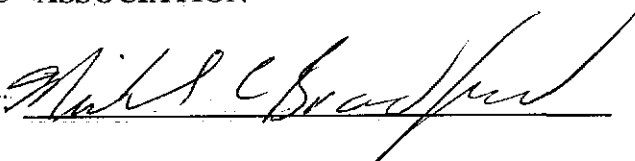
WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
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**PRAIRIE POINTE ADDITION**

Reserve B; Prairie Pointe Addition, an addition to  
Wichita, Sedgwick County, Kansas.

**HAMPTON LAKES MASTER  
ASSOCIATION**

By: 

# AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and that the signatures thereon are the genuine signatures of the persons they purport to be to the best of his knowledge and belief, being signed either in the presences of the undersigned or in the presence of one of the resident owners whose signature appears on the petition.

MKEC Engineering Consultants, Inc.  
Company

*Cynthia Womack*  
Authorized Signature

411 N. Webb Road

Wichita, Kansas  
Address

316-684-9600  
Telephone

Sworn to and subscribed before me this 21<sup>st</sup> day of March 20 11.



*Deborah J. Dolor*  
Deputy City Clerk

City of Wichita  
City Council Meeting  
May 17, 2011

**TO:** Mayor and City Council

**SUBJECT:** Repair or Removal of Dangerous & Unsafe Structures  
(Districts I and VI)

**INITIATED BY:** Office of Central Inspection

**AGENDA:** New Business

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**Recommendations:** Adopt the resolution.

**Background:** On April 5, 2011, a report was submitted with respect to the dangerous and unsafe conditions on the properties listed below. The City Council adopted a resolution providing for a public hearing to be held on the condemnation actions at 9:30 a.m. or soon thereafter, on May 17, 2011.

**Analysis:** On March 7, 2011, the Board of Code Standards and Appeals (BCSA) held hearings on the properties listed below

<b><u>Property Address</u></b>	<b><u>Council District</u></b>
a. 1017 South Hydraulic	I
b. 2439 West 3 <sup>rd</sup> Street North	VI

Detailed information/analyses concerning these properties are included in the attachments.

**Financial Considerations:** Structures condemned as dangerous buildings are demolished with funds from the Office of Central Inspection Special Revenue Fund contractual services budget, as approved annually by the City Council. This budget is supplemented by an annual allocation of federal Community Development Block Grant funds for demolition of structures located within the designated Neighborhood Reinvestment Area. Expenditures for dangerous building condemnation and demolition activities are tracked to ensure that City Council Resolution No. R-95-560, which limits OCI expenditures for non-revenue producing condemnation and housing code enforcement activities to 20% of OCI's total annual budgeted Special Revenue Fund expenditures, is followed. Owners of condemned structures demolished by the City are billed for the contractual costs of demolition, plus an additional \$500 administrative fee. If the property owner fails to pay, these charges are recorded as a special property tax assessment against the property, which may be collected upon subsequent sale or transfer of the property.

**Goal Impact:** This agenda item impacts the goal indicator to Support a Dynamic Core Area and Vibrant Neighborhoods. Dangerous building condemnation actions, including demolitions, remove blighted and unsafe buildings that are detrimental to Wichita neighborhoods.

**Legal Considerations:** Pursuant to State Statute, the resolutions were duly published twice on April 8, 2011 and April 15, 2011. A copy of each resolution was sent by certified mail or given personal service delivery to the owners and lien holders of record of the described properties.

**Recommendations/Actions:** It is recommended that the City Council close the public hearing, adopt the resolutions declaring the buildings to be dangerous and unsafe structures, and accept the BCSA recommended actions to proceed with condemnation, allowing 10 days to start demolition and 10 days to complete removal of the structures. Any extensions of time granted to repair any structures would be

contingent on the following: (1) All taxes have been paid to date as of May 17, 2011; (2) the structures have been secured as of May 17, 2011, and will continue to be kept secured; and (3) the premises are mowed and free of debris as of May 17, 2011, and will be so maintained during renovation.

If any of the above conditions are not met, the Office of Central Inspection will proceed with demolition action and also instruct the City Clerk to have the resolutions published once in the official city paper and advise the owner of these findings.

**Attachments:** Memorandums to Council, case summaries, and resolutions.

**DATE: April 27, 2011**

**CDM SUMMARY**

**COUNCIL DISTRICT # I**

**ADDRESS: 1017 S. HYDRAULIC**

**LEGAL DESCRIPTION: LOTS 7 AND 8, ON HYDRAULIC AVENUE, SALISBURY  
ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS**

**DESCRIPTION OF STRUCTURE: A one story frame dwelling about 16 x 21 feet in size. Vacant for at least 6 years, this structure has broken and missing wood lap siding; sagging, badly deteriorated composition roof with holes; exposed roof framing members and sheathing; rotted rafter tails and wood trim; and the 24 x 20 foot accessory garage is dilapidated, with a collapsing roof.**

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

**A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.**

**B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.**

**C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.**

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

---

Superintendent of Central Inspection  
Enforcing Officer

---

Date

**DATE: April 27, 2011**

**BCSA GROUP # 1**

**ADDRESS: 1017 S. HYDRAULIC**

**ACTIVE FIELD FILE STARTED: August 9, 1991**

**NOTICE(S) ISSUED:** Since August 9, 1991, a notice of improvement and numerous violation notices have been issued. In May 2005, an Environmental case was initiated resulting in court proceedings and resolution through owner compliance. In March 2007, an Environmental case was initiated resulting in owner compliance. In February 2011, a Neighborhood Nuisance Enforcement case was started and remains open. On March 23, 2011, Central Inspection staff completed an emergency board-up on this property at a cost of \$170.73.

**PRE-CONDEMNATION LETTER: July 30, 2010**

**TAX INFORMATION: Current**

**COST ASSESSMENTS/DATES:** There is a 2011 special assessment for board-up in the amount of \$170.73.

**PREMISE CONDITIONS:** Bulky waste, tree waste, debris, weeds, volunteer tree and dead trees.

**VACANT NEGLECTED BUILDING REPORT: None**

**NUISANCE ABATEMENT REPORT: None**

**POLICE REPORT: None**

**FORMAL CONDEMNATION ACTION INITIATED: January 10, 2011**

**RECENT DEVELOPMENTS:** No repairs have been made and the structure is secure.

**HISTORIC PRESERVATION REPORT:** This property may be listed on the national, state and/or local registers as a designated historic resource or it may be within the prescribed environs of a state or national register listed property or historic district. As a result, this matter is being referred to the City's Historical Preservation Board for review to determine compliance with any applicable Federal, State, local law or regulations.

**OWNER'S PAST CDM HISTORY:** This owner previously had a condemnation case resulting in demolition by City of Wichita contractor.

**BOARD OF C.S.&A. RECOMMENDATION:** At the March 7, 2011, BCSA hearing there was no one present on behalf of this property.

Board Member Murabito made a motion to refer the property to the City Council with a recommendation of condemnation, with ten days to begin demolition and ten days to complete the removal. Board Member Banuelos seconded the motion. The motion carried.

**STAFF RECOMMENDATION/REMARKS:** Staff recommends removal of the structure, however, any extensions to repairs would be providing any back taxes now due are paid, the structure is kept secured, and the premises remain free of debris and maintained. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

**DATE: April 27, 2011**

**CDM SUMMARY**

**COUNCIL DISTRICT # VI**

**ADDRESS: 2439 W. 3rd Street North**

**LEGAL DESCRIPTION: LOTS 21 AND 23, ON WHITNEY, NOW THIRD STREET,  
KIRKPATRICK 3RD ADDITION TO WICHITA, KANSAS, SEDGWICK COUNTY, KANSAS**

**DESCRIPTION OF STRUCTURE: A one story frame dwelling about 14 x 31 feet in size. Vacant for at least 6 months, this structure has cracked and missing stucco and vinyl siding; badly worn composition roof with missing shingles; deteriorated front porch; dilapidated rear porch cover; and the 8 x 10 foot wood frame accessory shed is dilapidated.**

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

**A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.**

**B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.**

**C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.**

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

---

Superintendent of Central Inspection  
Enforcing Officer

---

Date



**DATE: April 27, 2011**

**BCSA GROUP # 1**

**ADDRESS: 2439 W. 3rd Street North**

**ACTIVE FIELD FILE STARTED: March 23, 2010**

**NOTICE(S) ISSUED:** Since March 23, 2010, a notice of improvement and two violation notices have been issued. In February 2005, an Environmental case was initiated resulting in owner compliance. In November 2010, a Neighborhood Nuisance Enforcement case was initiated resulting in City of Wichita contractor abatement on March 23, 2011.

**PRE-CONDEMNATION LETTER: September 22, 2010**

**TAX INFORMATION:** The 2009 and 2010 taxes are delinquent in the amount of \$560.41, which includes interest.

**COST ASSESSMENTS/DATES: None**

**PREMISE CONDITIONS: Clean**

**VACANT NEGLECTED BUILDING REPORT: None**

**NUISANCE ABATEMENT REPORT:** On March 24, 2011, lot cleanup in the amount of \$613.28. Owner invoice pending.

**POLICE REPORT:** From July 2006 through September 2009, there have been five reported police incidents at this location including burglary residence, carry concealed firearm, possession of paraphernalia, miscellaneous report and miscellaneous officers.

**FORMAL CONDEMNATION ACTION INITIATED: January 10, 2011**

**RECENT DEVELOPMENTS:** No repairs have been made. The structure is unsecure with an open front door.

**HISTORIC PRESERVATION REPORT: No impact**

**OWNER'S PAST CDM HISTORY: None**

**BOARD OF C.S.&A. RECOMMENDATION:** At the March 7, 2011, BCSA hearing no one represented this property at the hearing.

**Board Member Coonrod made a motion to submit the property to the City Council for condemnation, with ten days to begin wrecking the structure and ten days to complete the demolition. Board Member Harder seconded the motion. The motion was approved.**

**STAFF RECOMMENDATION/REMARKS:** Staff recommends removal of the structure, however, any extensions to repairs would be providing any back taxes now due are paid, the structure is kept secured, and the premises remain free of debris and maintained. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

**May 17, 2011**  
**City Council Hearing**  
**Removal of Dangerous Structures Case Summary**

Address	Cncl. Dist.	Hsng. Case Age	Cndm. Init. Date	BCSA Hearing Date & Recommendation	Owner/ Rep. At BCSA ?	Open or Secure	Premise Cond. Status	Prop. Tax Status	Assmnts / Pending Assmnts	Pending Incurred Costs
1017 S. Hydraulic	I	19 yrs. 9 mos.	01/10/11	03-07-11: 10/10	No	Secure	Bulky waste, tree waste, debris, weeds, volunteer tree and dead trees.	Current	There is a 2011 special assessment for board-up in the amount of \$170.73.	None
2439 W. 3rd N.	VI	1 yr. 1 mo.	01/10/11	03-07-11: 10/10	No	The structure is unsecure with an open front door.	Clean	The 2009 and 2010 taxes are delinquent in the amount of \$560.41, which includes interest.	None	On March 24, 2011, lot cleanup in the amount of \$613.28. Owner invoice pending.

**PRELIMINARY ESTIMATES  
FOR CITY COUNCIL MAY 17, 2011**

- a. 2011 Sanitary Sewer Reconstruction Phase 2 (north of Central, west of Oliver) (468-84750/620578/661694) Traffic to be maintained during construction using flagpersons and barricades. (District I) - \$95,000.00
- b. CDBG Sidewalk Improvements FY2010/11 - Phase 2 (north of Pawnee, east of Meridian) (472-84972/92043/800000 010110) Traffic to be maintained during construction using flagpersons and barricades. (District I,III,IV&VI) - \$93,259.00
- c. Delano-West Douglas Bike Rack Project Phase 1 (Douglas, west of McLean) (472-84993/991393/99130 04000) Traffic to be maintained during construction using flagpersons and barricades. (District IV) - \$15,000.00
- d. Lateral 5, Main 6 Cowskin Interceptor Sewer to serve Turkey Creek 3rd Addition (north of Pawnee, east of 135th Street West) (468-84288/744320/480012) Does not affect existing traffic. (District V) - \$165,000.00

## Deeds and Easements for May 17, 2011 Council Meeting

### The following deeds and easements have been recorded:

Easement from Unified School District 259 dated February 24, 2011 for a tract of land lying in Lot 1, Peterson Elementary School Addition, Wichita, Sedgwick County, Kansas (OCA 607861) No cost to City

Utility Easement from H.H. Holding, LLC, a Kansas limited liability company dated March 1, 2011 for a tract of land lying in Lot 1, Block 1, Providence Square Addition, Wichita, Sedgwick County, Kansas (OCA 607861)

Public Utility Easement from ACCN Properties, a Kansas General Partnership dated October 15, 2010 for tracts of land lying in Lot 1, Block 2 and Lots 2-4, Block 1, Summit Crossing Addition, an addition to Wichita, Sedgwick County, Kansas (OCA 607861)

Sanitary Sewer Easement from Unified School District 259 dated September 14, 2010 for a tract of land lying in part of Lot 1, block A, USD 5<sup>th</sup> Addition, Wichita, Sedgwick County, Kansas (OCA 607861) No Cost to City

### The following easements need to be recorded:

Sanitary Sewer Easement from East Side Investments dated December 23, 2010 for tracts of land lying in a Lots 1, 4, 5, 6, and 7, Block 1, Pearson Commercial Addition to Wichita, Sedgwick County, Kansas (OCA 744316) No Cost to City

Drainage and Utility Easement from Greenwich 13 LLC, a Kansas limited liability company dated March 10, 2011 for a tracts of land lying in a Lots 1 and 2, Block 1, of Greenwich Office Park Second Addition to Wichita, Sedgwick County, Kansas (OCA 751494) No Cost to City

City of Wichita  
City Council Meeting  
May 17, 2011

**TO:** Mayor and City Council

**SUBJECT:** Community Events – Young Professionals of Wichita Enhance Community Project (District VI)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closures.

**Background:** In accordance with the Community Events procedure, the event promoter Corie Holbrook, Program Coordinator for Young Professionals of Wichita is coordinating with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following temporary street closure request has been submitted:

**YPW Enhance Community Project June 18, 2011 7:00 am – 4:00 pm**

- Jackson Street, 12<sup>th</sup> Street North to 11<sup>th</sup> Street North.

The event promoter will arrange to remove the blockades as necessary to allow emergency vehicle access during entire designated time period. The blockades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with the special event.

**Goal Impact:** Enhance the Quality of Life for citizens through special events and activities.

**Legal Consideration:** None.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to; (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department.

City of Wichita  
City Council Meeting  
May 17, 2011

**TO:** Mayor and City Council

**SUBJECT:** Relocate Existing Pipeline Easement across City Owned Property in and around Dr. Glen Dey Park (formerly Grove Park) in Conjunction with the Homeland Preparedness Project (District 1)

**INITIATED BY:** Department of Public Works & Utilities

**AGENDA:** Consent

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**Recommendation:** Approve the easement

**Background:** The City of Wichita and Sedgwick County have entered into an agreement with the Federal government to develop a centralized facility for National Guard and Army Reserve use. The site is located on City owned land east of I-135 and south to the Union Pacific railroad rail line. The City's commitment to the project includes development of the site, along with a variety of other infrastructure improvements. A gas line located in an existing easement was in conflict with proposed infrastructure improvements. As part of the project, it was necessary to relocate the existing gas pipeline. The pipeline company has relocated at its own expense to a location designated by the City of Wichita. The new location is on City owned property in and around Dr. Glen Dey Park.

**Analysis:** The gas pipeline has been relocated to a location designated by the City of Wichita; the proposed easement was presented to and supported by the Park Board on May 17, 2010. The easement is subsurface and does not impact any improvements or significant landscaping. In the event that the pipeline would need to be relocated in the future due to need for a Capital Improvement Project, the pipeline company would relocate at its own expense.

**Financial Considerations:** Recording fees will be paid by the utility; no additional expenses to the City of Wichita are anticipated.

**Goal Impact:** Granting this easement assists in providing a site and infrastructure to support a major new governmental development.

**Legal Considerations:** The Law Department has approved the easement as to form.

**Recommendation/Action:** It is recommended that the City Council approve the easement and authorize the necessary signatures.

**Attachments:** Easement, tract map and aerial.

## PIPELINE EASEMENT

THIS EASEMENT made this \_\_\_\_ day of \_\_\_\_\_, 2010, by and between the City of Wichita, Kansas, a municipal corporation and the Board of Park Commissioners, a municipal corporation herein referred to as "Grantor", its successors and assigns and NuStar Pipeline Company, LLC here in referred to as "Grantee", its successors and assigns.

WHEREAS, the Grantee, successor to Kaneb Pipeline Company, has documented its right to occupy property in the area of required adjustments pursuant to its Agreement and Partial Release of Right of Way dated May 20m 2003 and;

WHEREAS, the Grantor and Grantee are desirous to redefine said easement and relocate said pipeline and;

WHEREAS, upon said relocation and redefinition, the prior easement as recorded if film 702, page 1613 shall become null and void and;

WITNESSETH: That Grantor, in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, does hereby grant, sell and convey unto the Grantee a perpetual easement for the right to constrict, install, inspect, maintain, operate, alter, repair, protect, replace, substitute, relocate and/or remove one pipeline for the transportation of oil, gas, petroleum, or any of their products, or water or other liquid or mineral substances, said right being subject to Grantee complying with the City of Wichita's rules and regulations concerning the operation and maintenance of pipelines within City easements over, along, and under, through and across the following described real estate situated in Sedgwick County, Kansas together with all necessary rights of ingress and egress to and from said premises for said purpose; to wit:

A 50' Pipeline Easement in the Northwest Quarter of Section 3, Township 27 South, Range 1 East of the 6th P.M. and in Lot 1, Block 1, Heartland Preparedness Center, an addition to Wichita, Sedgwick County, Kansas being more particularly described as follows and depicted on Exhibit "A" attached hereto and made a part hereof:

COMMENCING at the northeast corner of Lot 1, Block 1, in Heartland Preparedness Center, an addition to Wichita, Sedgwick County, Kansas: Thence Bearing S00°45'09"E, along the east line of said Lot 1, a distance of 423.84 feet to the POINT OF BEGINNING: Thence Bearing S66°29'08"W, a distance of 37.95 feet; Thence Bearing S00°45'09"E, a distance of 328.43 feet; Thence Bearing S74°00'51"W, a distance of 476.99 feet to the P.C. of a curve to the left; Thence along said curve to the left, having a radius of 605.79 feet, a chord bearing S55°25'29"W, a chord distance of 395.83 feet, through a central angle of 38°08'16", an arc distance of 403.23 feet to a point on the north line of the south half of the north half of the Northwest Quarter of Section 3, Township 27 South, Range East of the 6th P.M.; Thence Bearing N88°50'43"E, along said north line, a distance of 41.95 feet to the southeasterly line of said Lot 1, Thence continuing Bearing N88°50'43"E, along said north line, a distance of 22.85 feet to the P.C. of a curve to the right; Thence along said curve to the right, having a radius of 555.79 feet a chord bearing of N57°28'15"E, a chord distance of 325.81 feet, through a central angle of 34°05'17", an arc distance of 330.66 feet; Thence Bearing N74°00'15"E, parallel with and 15 feet from the southerly line of said Lot 1, a distance of 515.41 feet; Thence Bearing N00°45'09"W, parallel with and 15 feet east of the east line of said Lot 1, a distance of 333.39 feet; Thence Bearing N66°29'08"E, a distance of 73.86 feet to a point on the east line of the west half of the northeast quarter of the northeast quarter of the Northwest Quarter of said section 3; Thence Bearing N00°18'53"W, along the east line of the west half of the northeast quarter of the northeast quarter of said Northwest Quarter, a distance of 54.40 feet; Thence Bearing S66°29'08"W, a distance of 90.58 feet to the POINT OF BEGINNING.

(Said 50' Pipeline Easement containing 1,487 acres, more or less)

Grantee agrees, at the request of the City of Wichita and at the sole expense of Grantee, to remove and relocate said pipeline if the existing pipeline at any time in the future interferes with a project

for public improvement in the public easement. Said removal and relocation shall be accomplished at least 60 days prior to the date construction on the public improvement is to commence, provided that the City has given Grantee adequate notice and reasonable time, to remove and relocate said pipeline.

The inspection, maintenance, operation, alteration, repair, protection, replacement, substitution, relocation and/or removal shall be done in a careful and workmanlike manner in accordance with nationally recognized engineering practices and in a manner so as not to endanger persons or property and unless otherwise approved by grantor, in such a manner as to not substantially impair or impede the use of said land for roads, ditches, drains and borrow pits.

Grantor agrees to maintain at least five feet (5 ft.) of soil above the pipeline and within the granted pipeline right of way. Grantor agrees to maintain and keep clear the granted pipeline right of way without additional compensation from Grantee.

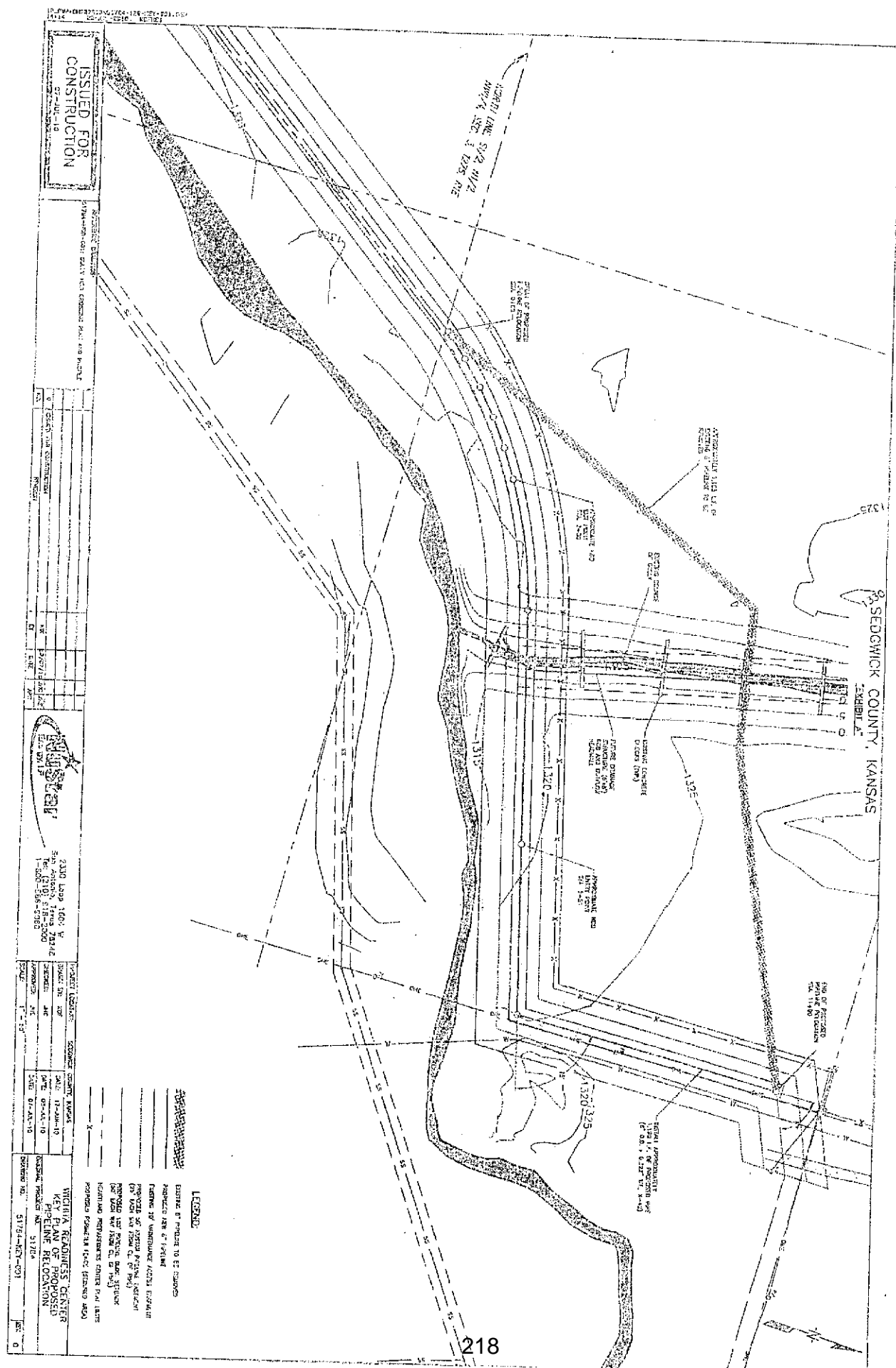
Grantee agrees and covenants to protect and save harmless the said City of Wichita, Kansas, its City Council, city employee or city's agent from any loss, damage or expense growing out of any and all claims, demands or causes of action for injury or damages to person or property arising out Grantee's obligation to maintain, repair, replace, and/or remove its said pipeline in, over, under, across, and through the public lands, ditches, drains, etc., under the jurisdiction of said City Council to the extent arising from or due to Grantee or its Contractor's negligence.

Grantee is hereby granted the right to enter upon said premises at any time for the purpose of constructing, inspecting, operating, altering, maintaining, repairing, protecting, replacing, substituting, relocating and/or removing such pipeline easement.

[SIGNATURE PAGE TO FOLLOW]







City of Wichita  
City Council Meeting  
May 17, 2011

**TO:** Mayor and City Council

**SUBJECT:** Agreement for Design Services for Water, Sanitary Sewer Drainage, and Paving Improvements in Stonebridge 2<sup>nd</sup> Addition (District II)

**INITIATED BY:** Department of Public Works & Utilities

**AGENDA:** Consent

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**Recommendation:** Approve the agreement.

**Background:** The City Council approved the water, sanitary sewer drainage, and paving improvements in Stonebridge 2<sup>nd</sup> Addition on March 22, 2011.

**Analysis:** The proposed agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of water, sanitary sewer drainage, and paving in Stonebridge 2<sup>nd</sup> Addition. Per Administrative Regulation 1.10, staff recommends that Baughman Company, P.A. be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

**Financial Considerations:** Payment to Baughman Company, P.A. will be on a lump sum basis of \$74,500 and will be paid by special assessments.

**Goal Impact:** This agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of water, sanitary sewer drainage, and paving improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

**Legal Considerations:** The agreement has been approved as to form by the Law Department.

**Recommendation/Action:** It is recommended that the City Council approve the agreement and authorize the necessary signatures.

**Attachments:** Agreement.

**CITY OF WICHITA**  
**City Council Meeting**  
May 17, 2011

**TO:** Mayor and City Council

**SUBJECT:** Partial Acquisition of 1531 South Broadway for the Harry and Broadway Intersection Improvement Project (Districts I and III)

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

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**Recommendation:** Accept the dedication.

**Background:** The City Council has approved the design concept and proposed project to improve the intersection of Harry and Broadway. The project will require the acquisition of all or part of eleven tracts. The improvements include adding left turn lanes, improving the sidewalks, improving the storm sewer system and landscaping. It is necessary to obtain a temporary easement during construction from the property at 1531 South Broadway. The property is improved with a retail store however; the improvements are removed from the proposed 756 square foot easement area.

**Analysis:** The owner agreed to convey the temporary easement area for the estimated appraised value of \$1,225, or 1.62 per square foot.

**Financial Considerations:** The funding source for the project is General Obligation Bonds. A budget of \$1,375 is requested. This amount is comprised of \$1,225 for the easement and \$150 for the title work and other administrative fees.

**Goal Impact:** The acquisition of this parcel is necessary to ensure Efficient Infrastructure by improving the traffic flow through a major transportation corridor.

**Legal Considerations:** The Law Department has approved the temporary construction easement as to form.

**Recommendation/Action:** It is recommended that the City Council 1) Approve the budget and 2) Accept the easement.

**Attachments:** Aerial map, tract map and temporary construction easement.

### TEMPORARY CONSTRUCTION EASEMENT

THIS EASEMENT made this 15<sup>th</sup> day of April, 2011, by and between Midwest Equipment, LLC, Grantor and the City of Wichita, Kansas, a municipal corporation, Grantee.

WITNESSETH: That the said Grantor, in consideration of the sum of One Thousand Two Hundred Twenty Five and no/100 Dollars (\$1,225.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, do hereby grant and convey unto the Grantee a temporary right-of-way for the purpose of constructing, maintaining, and repairing road right-of-way, over, along and under the following described real estate situated in Wichita, Sedgwick County, Kansas, to wit:

#### Temporary Construction Easement

That part of Lot 2, Bencor 3rd Addition, Wichita, Sedgwick County, Kansas, described as beginning at the northeast corner of said Lot 2; thence South along the east line of said Lot 2, 115.20 feet to the southeast corner of said Lot 2; thence West along the south line of said Lot 2, 5.00 feet; thence North, parallel with said east line, 47.00 feet; thence West, perpendicular to said east line, 6.00 feet; thence North, parallel with said east line, 30.00 feet; thence East, perpendicular to said east line, 6.00 feet; thence North, parallel with said east line, 38.20 feet to the north line of said Lot 2; thence East, along said north line, 5.00 feet to the place of beginning.

And said Grantee, successors and assigns, is hereby granted the right to enter upon said premises at any time for the purpose of constructing, operating, maintaining, and repairing such roadway and utility improvements beginning the date this easement is executed.

**This temporary easement shall expire automatically at the end of construction or at two years from execution of said document, whichever comes first.**

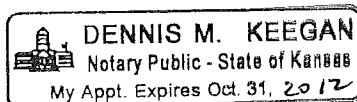
IN WITNESS WHEREOF: The said first party has signed these presents the day and year first written.

STATE OF KANSAS     )  
                                      ) ss:  
SEDGWICK COUNTY    )

Midwest Equipment LLC by Brent D. Boles - Managing Partner

This instrument was acknowledged before me on the 15<sup>TH</sup> day of APRIL, 2011 by

BRENT D. BOLES, MANAGING PARTNER of SHAWNEE County.



Dennis M. Keegan  
Dennis M Keegan, Notary Public  
My Commission Expires: October 31, 2012



# 1531 South Broadway



- |   |                                   |  |                             |                              |   |                                |  |   |                                     |                              |                                   |                                    |                                |                               |                                    |  |                                    |                                  |   |                                   |   |                                |  |                                |                                   |                                      |                                 |                                   |                                  |                                 |                                     |                                  |                                |                                      |
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| <input type="checkbox"/> Historic Districts | <input type="checkbox"/> Old Town | <input type="checkbox"/> Delano Overlay District | <input type="checkbox"/> NO | <input type="checkbox"/> YES | <input type="checkbox"/> Property Parcels | <input type="checkbox"/> Roads | <input type="checkbox"/> State Highway | <input type="checkbox"/> US Federal Highway | <input type="checkbox"/> Interstate | <input type="checkbox"/> KTA | <input type="checkbox"/> Arterial | <input type="checkbox"/> Collector | <input type="checkbox"/> Minor | <input type="checkbox"/> Ramp | <input type="checkbox"/> Railroads | <input type="checkbox"/> Quarter Section | <input type="checkbox"/> Waterways | <input type="checkbox"/> Streams | <input type="checkbox"/> Historic Sites | <input type="checkbox"/> REGIONAL | <input type="checkbox"/> STATE/NATIONAL | <input type="checkbox"/> STATE | <input type="checkbox"/> Historic Environs | <input type="checkbox"/> Parks | <input type="checkbox"/> Airports | <input type="checkbox"/> City Limits | <input type="checkbox"/> Andale | <input type="checkbox"/> Bel Aire | <input type="checkbox"/> Bentley | <input type="checkbox"/> Cheney | <input type="checkbox"/> Clearwater | <input type="checkbox"/> Colwich | <input type="checkbox"/> Derby | <input type="checkbox"/> Eastborough |
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Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

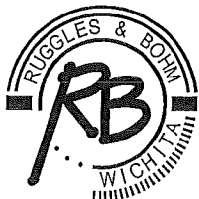
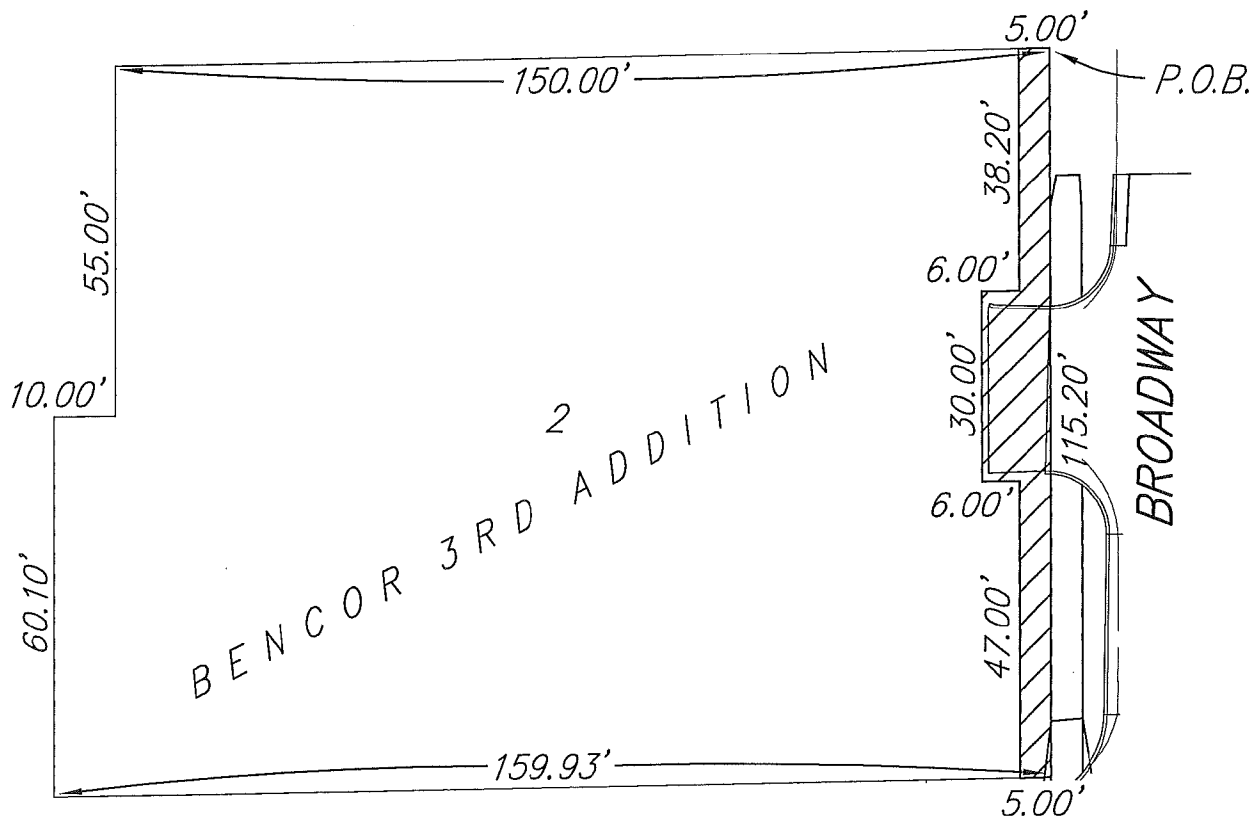
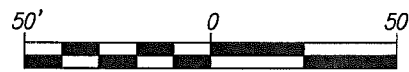


# TEMPORARY CONSTRUCTION EASEMENT EXHIBIT #18

MIDWEST EQUIPMENT, LLC  
1824 S. KANSAS AVE  
TOPEKA, KS 66612

A 19404

Right Of Way Area: 756 Sq. Ft.±  
0.02 Acres



Ruggles & Bohm, P.A.

Engineering, Surveying, Land Planning

924 North Main  
Wichita, Kansas 67203  
www.rbkansas.com

(316) 264-8008  
(316) 264-4621 fax  
E-mail: info@rbkansas.com

**CITY OF WICHITA**  
**City Council Meeting**  
May 17, 2011

**TO:** Mayor and City Council

**SUBJECT:** Partial Acquisition of 3201 South Seneca for the Seneca, 31<sup>st</sup> Street South to Interstate 235 Road Improvement Project (District IV)

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

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**Recommendation:** Approve the acquisition.

**Background:** On April 6, 2010, the City Council approved the design concept and the funding to acquire right-of-way for the Seneca Street improvement project between 31<sup>st</sup> Street South and Interstate 235. The roadway will be widened to five lanes with four through lanes and a center, two-way turn lane. There will be new sidewalks on each side of Seneca. The traffic signals and the drainage system will be upgraded during construction. The property at 3201 South Seneca is at the southwest corner of Seneca and 31<sup>st</sup> Street South. The site is improved as a gas station however, only landscaping will be impacted as a result of the acquisition. The proposed acquisition area is the eastern fifteen feet of the property of the northern 100 feet. The acquisition area is comprised of 1,504 square feet.

**Analysis:** The owner agreed to accept the estimated appraised value of \$7,520, or \$5 per square foot together with \$5,680 to relocate personal property for a total of \$13,200. The \$5,680 is compensation for relocating personal property based on an estimate to have the irrigation system removed and reset upon completion of the project. The City will reinstall the bus stop at this location as part of the project.

**Financial Considerations:** The funding source is General Obligations Bonds. A budget of \$13,950 is requested. This includes \$13,200 for the acquisition and \$750 for closing costs and related charges.

**Goal Impact:** The acquisition of this easement is necessary to ensure Efficient Infrastructure by improving an arterial street through a developed part of the City.

**Legal Considerations:** The Law Department has approved the purchase agreement as to form.

**Recommendation/Action:** It is recommended that the City Council; 1) Approve the purchase agreement; 2) Approve the budget; and 3) Authorize the necessary signatures.

**Attachments:** Aerial map, tract map and real estate purchase agreement.



## REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT, Made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2011 by and between Dillon Real Estate Co., Inc., a Kansas corporation, party of the First Part, hereinafter referred to as "Seller," whether one or more, and the City of Wichita, Kansas, a municipal corporation, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

**WITNESSETH:** That for and in consideration of the mutual promises, covenants and payments hereinafter set out, the parties hereto do hereby contract to and with each other, as follows:

1. The Seller does hereby agree to sell and convey to the Buyer by a Limited Warranty Deed the following described real property, situated in Sedgwick County, Kansas, to-wit:

A tract of land lying in the Northeast Quarter, Section 7, Township 28 South, Range 1 East of the 6<sup>th</sup> P.M., Wichita, Sedgwick County, Kansas more particularly described as follows:

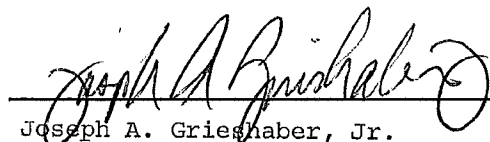
The East 15 ft of Lot 1, Bare Addition, an addition to Wichita, Sedgwick County, Kansas

2. The Buyer hereby agrees to purchase, and pay to the Seller, as consideration for the conveyances to the Buyer the above-described real properties including but not limited to damages to the landscaping and sprinkler system, the sum of Thirteen Thousand Two Hundred Dollars (\$13,200) in the manner following to-wit: cash at closing.
3. A title insurance company's commitment to insure or a complete abstract of title certified to date, to the above-described real property, showing a merchantable title vested in the seller, subject to easements and restrictions of record is required. The Title Evidence shall be sent to the Office of Property Management for the City of Wichita for examination by the Buyer as promptly and expeditiously as possible, and it is understood and agreed that the Seller shall have a reasonable time, but not to exceed thirty (30) days after said Title Evidence has been examined in which to correct any defects in title. If defects in title are not corrected to Buyer's satisfaction, Buyer, at Buyer's option, may cancel this contract. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0% by Seller and 100% by Buyer.
4. A duly executed copy of this Purchase Agreement shall be delivered to the parties hereto.
5. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before May 20, 2011.
6. Possession to be given to Buyer at closing.
7. Closing costs shall be paid 100% by Buyer and 0% by Seller.

**WITNESS OUR HANDS AND SEALS** the day and year first above written.

**SELLER: DILLON REAL ESTATE CO., INC:**

  
\_\_\_\_\_

  
\_\_\_\_\_  
Joseph A. Grieshaber, Jr.  
Vice President

**BUYER: CITY OF WICHITA, KANSAS:**

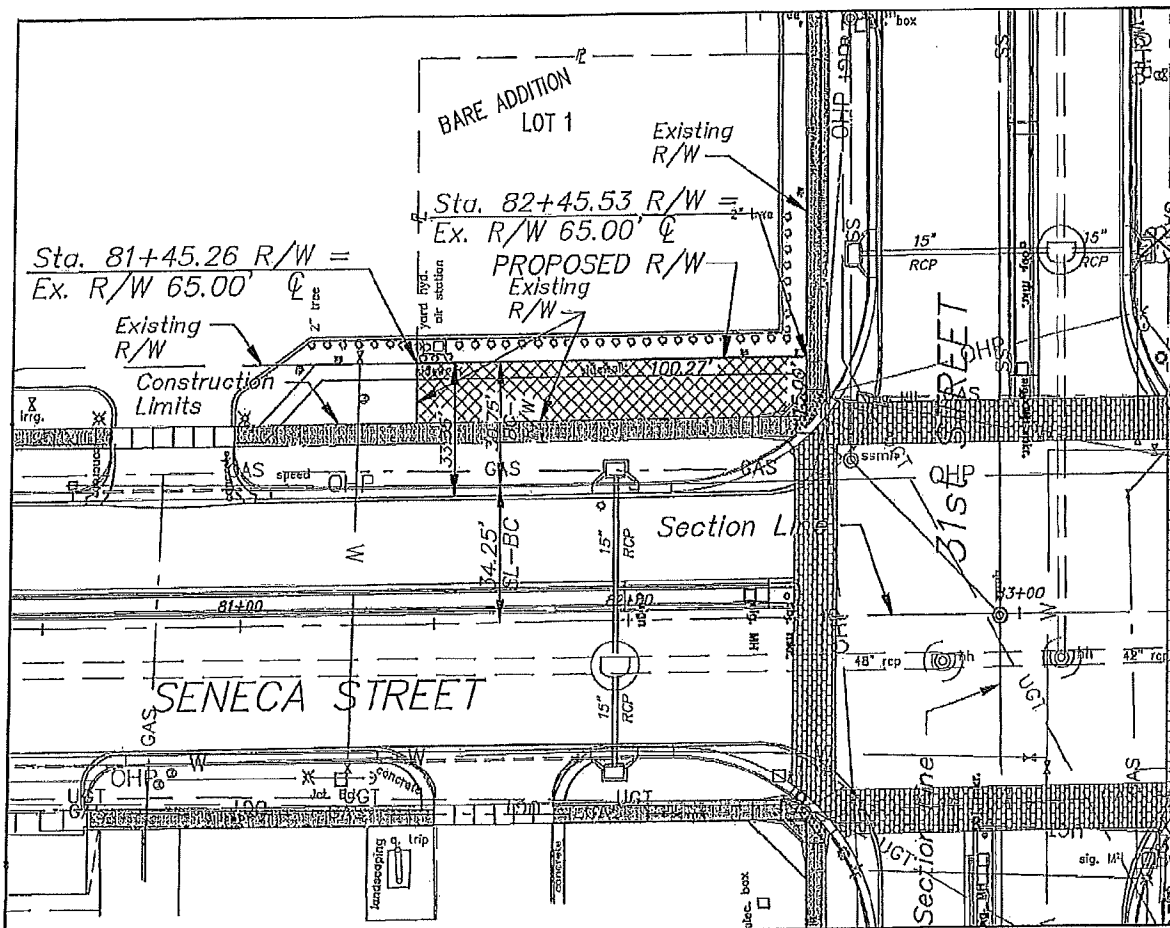
\_\_\_\_\_  
Carl Brewer, Mayor

**ATTEST:**


\_\_\_\_\_  
Karen Sublett, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law



Dillon Real Estate Co. Inc.

 Proposed Right-of-Way

Proposed R/W ACQ. LEGAL

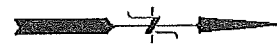
A tract of land lying in the Northeast Quarter, Section 7, Township 28 South, Range 1 East of the Sixth Principal Meridian, Wichita, Sedgwick County, Kansas more particularly described as follows:

The East 15.00 feet of Lot 1, Bare Addition, an addition to Wichita, Sedgwick County, Kansas.

Tax Key # D 15583

Proposed Right-of-way Acquisition Size: 1,504.1 Sq. Ft. +/-

SENECA STREET  
1-235 TO 31st STREET  
**TRACT MAP**  
DILLON REAL ESTATE CO. INC.  
SEC 7-T28S-R1E

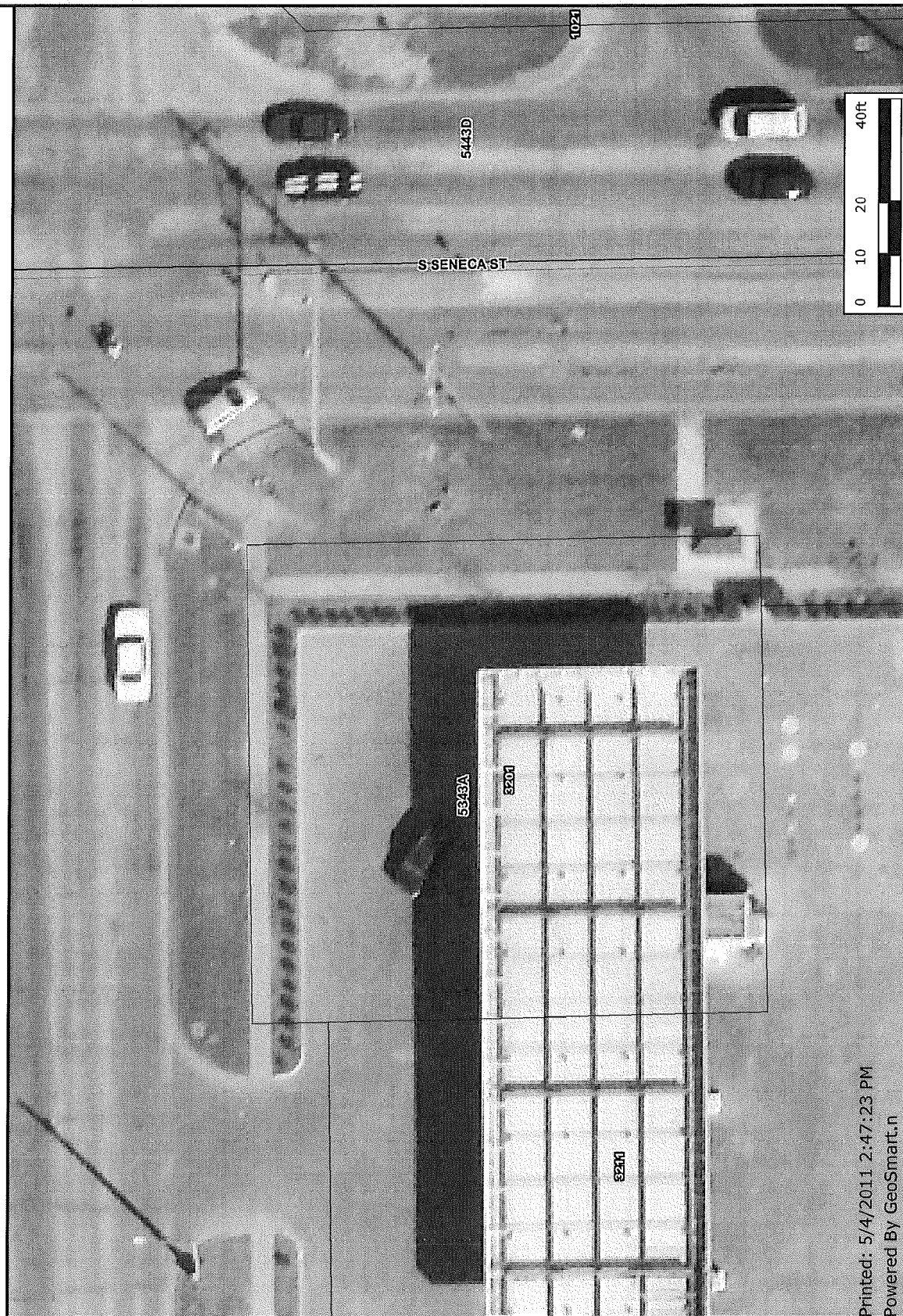


SCALE: 1"=40'

May 04, 2010



# 3201 South Seneca



Printed: 5/4/2011 2:47:23 PM  
Powered By GeoSmart.n



Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.



- ☐ Historic Districts
- ☐ Old Town
- ☐ Delano Overlay District
- ☐ NO
- ☐ YES
- ☐ Property Parcels
- Roads**
  - State Highway
  - US Federal Highway
  - Interstate
  - KTA
  - Arterial
  - Collector
  - Minor
  - Ramp
  - Railroads
  - Quarter Section
  - Waterways
  - Streams
- Historic Sites**
  - REGIONAL
  - STATE/NATIONAL
  - STATE
  - Historic Environs
- Parks**
- Airports**
- City Limits**
  - Andale
  - Bel Aire
  - Bentley
  - Cheney
  - Clearwater
  - Colwich
  - Derby
  - Eastborough

City of Wichita  
City Council Meeting  
May 17, 2011

**TO:** Mayor and City Council

**SUBJECT:** Purchase Option, Big Dog Motorcycles (Waterview Realty, LLC.) (District I)

**INITIATED BY:** Office of Urban Development

**AGENDA:** Consent

---

**Recommendation:** Adopt the Resolution.

**Background:** On September 9, 2003, the City Council approved the issuance of Industrial Revenue Bonds (IRBs) in the amount of \$1,100,000 for Big Dog Motorcycles (“Big Dog”), which were in addition to \$2,000,000 issued in 2000 and \$800,000 in 2002. The 2000, 2002 and 2003 bond proceeds were used to finance acquisition and remodeling of the former Quality Chevrolet dealership at 1520 East Douglas and construction of additional warehouse buildings to provide space for Big Dog’s corporate offices and manufacturing plant. Under the IRB financing structure, the City is the owner of the bond-financed real estate, which is leased to Waterview Realty, LLC and sub-leased to Big Dog. Waterview Realty is owned by Sheldon Coleman who is also the owner of Big Dog.

Due to a downturn in business, Big Dog Motorcycles has ceased operations and its assets were foreclosed on by its lender in April 2011. The assets subject to foreclosure do not include any IRB-financed property. The City received notice from Waterview Realty of its intention to exercise the IRB purchase option and requests approval of the deed back of all IRB-financed property.

**Analysis:** Under the provisions of the IRB Lease Agreement between Waterview Realty, L.L.C. (“Tenant”) and the City, the Tenant has the option, if all outstanding bonds and fees have been paid, to purchase the facilities from the City of Wichita for the sum of \$1,000. Tenant made final payment on the bonds in April 2011.

**Financial Considerations:** The City has received payment of the \$1,000 purchase option price required by the Lease Agreement. There are no fiscal impacts to the City as a result of the purchase option.

**Goal Impact:** Economic Vitality and Affordable Living. Cooperating with the Tenant and Trustee on IRB issues is a necessary part of preserving the credibility and integrity of the City’s IRB program for future projects.

**Legal Considerations:** The City is required to convey the IRB Project property to the Tenant once all the conditions established in the Lease have been met. The Resolution authorizing execution of the Bill of Sale, Special Warranty Deed and Termination of Lease Agreement, and the delivery of such documents has been approved as to form by the Law Department.

**Recommendations/Actions:** It is recommended that the City Council adopt the Resolution approving the Bill of Sale, Termination of Lease Agreement and Special Warranty Deed to convey the Big Dog property to Waterview Realty, L.L.C. and authorize the necessary signatures.

**Attachments:** Resolution, Special Warranty Deed, Termination of Lease Agreement, Bill of Sale

## **EXHIBIT B**

### **BILL OF SALE**

KNOW ALL MEN BY THESE PRESENTS, that in consideration of One Thousand Dollars (\$1,000) and other good and valuable consideration, the receipt of which is hereby acknowledged, the undersigned, City of Wichita, Kansas, a municipal corporation (the "Grantor"), does grant, sell, transfer and deliver unto Waterview Realty, LLC, (the "Grantee"), all of its interest in the following goods and chattels, viz:

All buildings, improvements, fixtures, machinery, equipment, furnishings and other personal property purchased with the proceeds of the City of Wichita, Kansas, Industrial Revenue Bonds, Series V, 2000; Series III, 2002; Series IV, 2003 (Big Dog Motorcycles Project) and constituting the "Improvements" pursuant to the terms of a certain Lease dated as of December 1, 2000 (the "2000 Lease"), as supplemented by a First Supplemental Lease dated as of October 1, 2002 (the "First Supplemental Lease"), and a Second Supplemental Lease dated as of September 1, 2003 (the "Second Supplemental Lease") (the 2000 Lease, the First Supplemental Lease and the Second Supplemental Lease hereinafter referred to collectively as the "Lease", between the Grantor and Grantee (the "Lease") and located on the following described property:

**Parcel #1:**

Lots 37, 38, 39, 40 and the north 10 feet of Lot 41, and the south 40 feet of Lot 42, and all of Lots 43 and 44, all on Hydraulic Avenue, in Supplemental Plat of Mathewson's Addition to the City of Wichita, Sedgwick County, Kansas, except the east 10 feet thereof for street.

**Parcel #2:**

The south 40 feet of Lot 41, and the north 10 feet of Lot 42, on Hydraulic Avenue, and the east 130 feet of Reserve B, all in Supplemental Plat of Mathewson's Addition to the City of Wichita, Sedgwick County, Kansas, except the east 10 feet thereof for street.

**Parcel #3:**

Lots A, B, C, D, E, F & G, McKim & Newcombs Subdivision of Lot 35 Mathewson's Addition to Wichita, Kansas, Sedgwick County, Kansas.

**Parcel #4:**

Lots H, I, J & K, McKim & Newcombs Subdivision of Lot 35, Mathewson's Addition to Wichita, Kansas, Sedgwick County, Kansas.

**Parcel #5:**

The south 41 feet of Lot 36, except the west 20 feet thereof for street, and that portion of Reserve B described as beginning at the Southeast corner of said Lot 36, thence south 30 feet; thence west 101.5 feet to the East line of Pennsylvania Avenue, thence north 30 feet on the East line of Pennsylvania Avenue, thence east 101.5 feet to the point of beginning, all in Supplemental Plat of Mathewson's Addition to City of Wichita, Sedgwick County, Kansas.

**Parcel #6:**

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, the south 20 feet of Lot 11, all of Lots 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22, all in Blackwelder's Subdivision in Mathewson's Addition to Wichita, Sedgwick County, Kansas, together with the vacated alley lying south of and adjacent to Lot 6 and lying north of and adjacent to Lots 1, 2, 3, 4 and 5, except the south 5 feet of Lot 12 for street, and except the east 55 feet of Lots 18, 19, 20, 21 and 22, and except the west 4 feet of Lots 12, 13, 14, 15, 16 and 17 for alley.

Parcel #7:

The east 55 feet of Lots 18 and 19, except the north 0.25 feet of Lot 19, in Blackwelder's Subdivision in Mathewson's Addition to Wichita, Sedgwick County, Kansas.

Parcel #8: Lots 3, 4 and 5, and 0.2 feet surplus adjacent to Lot 5, on Douglas Avenue, McKims Subdivision of the South Half of Lot 31, in Mathewson's Addition to Wichita, Kansas, Sedgwick County, Kansas, together with the South Half of the vacated alley lying north of and adjacent to said lots.

Parcel #9:

The west 70 feet of the North Half of Lot 31, on Douglas Avenue, in Supplemental Plat of Mathewson's Addition to Wichita, Sedgwick County, Kansas, together with the North Half of the vacated alley lying south of and adjacent to a portion of the above described property, as described in the vacation order filed in Book Misc. 500, Page 345, except the west 20 feet of the east 50 feet thereof and except the north 5 feet thereof for street.

Parcel #10:

That part of the North Half of Lot 31, on Douglas Avenue, in Supplemental Plat of Mathewson's Addition to Wichita, Sedgwick County, Kansas, described as follows: Beginning at a point 11.8 feet west and 5 feet south of the Northeast corner of said Lot 31, thence south 145 feet, thence west 50 feet, thence north 145 feet, thence east 50 feet to the point of beginning, together with the North Half of the vacated alley lying south of and adjacent to said tract.

Parcel 11:

Lots 2, 4, 6, 8 and 10 on Boston Avenue, now Victor Street in G.A. Hatfields Subdivision of Lot 32 in Mathewson's Addition to Wichita, Kansas, Sedgwick County, Kansas.

Parcel #12:

Lots 1, 2, 3, 4, 5 and 6, on Hazel Avenue, now New York Avenue, Tiffanys Subdivision of Lot 29 in Mathewson's Addition to Wichita, Kansas, Sedgwick County, Kansas, except the north 5 feet of Lot 1 for street.

Parcel #13:

Lots 2, 4, 6, 8, 10, 12, 14, 16, 18, 20 and 22, on New York Avenue, Little and Kimball's Subdivision of Lots 28 and 30 in Mathewson's Addition to Wichita, Sedgwick County, Kansas.

Parcel #14:

Lots 1, 3, 5, 7, and 9 on 1st Street, and the West 4 ft. of vacated alley adjoining Lot 9 on East, G.A. Hatfields Subdivision of Lot 32, Mathewson's Addition, Wichita, Sedgwick County, Kansas.

To have and to hold, all and singular, the said goods and chattels forever. And the said Grantor hereby covenants with the said Grantee that the interest of Grantor conveyed hereby is free from all encumbrances except (i) those liens and encumbrances to which title to the described property was subject when conveyed to the Grantor, (ii) those liens and encumbrances created by the Grantee or to the creation or suffering of which the Grantee has consented; (iii) those liens and encumbrances resulting from the failure of the Grantee to perform and observe any of the agreements on its part contained in the Lease under which it has heretofore leased such property; and (iv) the restriction that no existing building nor any building which is constructed or placed upon the property conveyed hereby, either temporarily or permanently, shall be used for housing the operation of any multi-game, casino-style gambling; and that it will warrant and defend the same against the lawful claims and demands of all persons claiming through the Grantor.

IN WITNESS WHEREOF, we have hereunto set our hand and affixed the official seal of the City of Wichita, Kansas, for delivery as of the \_\_\_\_\_ day of May, 2011.

CITY OF WICHITA, KANSAS

\_\_\_\_\_  
Carl Brewer, Mayor

[SEAL]

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

ACKNOWLEDGMENTS

STATE OF KANSAS                    )  
  )SS:  
SEDGWICK COUNTY)

BE IT REMEMBERED, that on this \_\_\_\_\_ day of May 2011, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Carl Brewer, Mayor, and Karen Sublett, City Clerk, who are personally known to me to be the same persons who executed the foregoing instrument of writing, and duly acknowledged the execution of the same on behalf of the City of Wichita, Kansas, as the free act of such City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last above written.

\_\_\_\_\_  
Notary Public

My Appointment Expires:

\_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
Gary E. Rebenstorf  
Director of Law



## **EXHIBIT C**

### **SPECIAL WARRANTY DEED**

THIS INDENTURE, made this \_\_\_\_ day of May, 2011 by and between the City of Wichita, Kansas, a municipal corporation duly organized and existing under the laws of the State of Kansas and located in Sedgwick County, Kansas (the “Grantor”), and Waterview Realty, LLC of Wichita, Kansas (the “Grantee”).

WITNESSETH: That Grantor, in consideration of the sum of One Thousand Dollars (\$1,000) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does by these presents grant, bargain, sell and convey to Grantee, its successors and assigns, all of Grantor’s interest in the property situated in Sedgwick County, Kansas, specifically described on Schedule I attached hereto and incorporated hereby.

Grantor hereby covenants that its interest as conveyed hereby is conveyed free and clear of all liens and encumbrances except (i) those liens and encumbrances to which title to the described property was subject when conveyed to Grantor; (ii) those liens and encumbrances created by the Grantee or its predecessor or to the creation or suffering of which the Grantee or its predecessor has consented; (iii) those liens and encumbrances resulting from the failure of the Grantee or its predecessor to perform and observe any of the agreements on its part contained in the Lease under which it has heretofore occupied the described property; (iv) the rights of the public in and to any part of the described property lying or being in public roads, streets, alleys or highways; (v) any unpaid taxes or assessments, general or special; (vi) the restriction that no existing building nor any building which is constructed or placed upon the property conveyed hereby, either temporarily or permanently, shall be used for housing the operation of any multi-game casino-style gambling; and (vii) the rights, titles and interests of any party having condemned or who is attempting to condemn title to, or the use for a limited period of, all or any part of the described property; and further covenants that it will warrant and defend the same in the quiet and peaceable possession of Grantee, its successors and assigns, forever, against all persons claiming the same through Grantor.

IN WITNESS WHEREOF, we have hereunto set our hand and affixed the official seal of the City of Wichita, Kansas, for delivery as of the date first written above.

CITY OF WICHITA, KANSAS

By: \_\_\_\_\_  
Carl Brewer, Mayor

[SEAL]

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

ACKNOWLEDGMENTS

STATE OF KANSAS            )  
  )       ss:  
COUNTY OF SEDGWICK    )

BE IT REMEMBERED that on this \_\_\_\_ day of May, 2011, before me, a notary public in and for said County and State, came Carl A. Brewer, Mayor of the City of Wichita, Kansas, a municipal corporation of the State of Kansas (the "City"), and Karen Sublett, City Clerk of said City, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

\_\_\_\_\_  
Notary Public

My Appointment Expires:

\_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
Gary E. Rebenstorf  
Director of Law

## **WATERVIEW REALTY, LLC OF WICHITA, KANSAS**

### **SCHEDULE I**

SCHEDULE I TO THE TRUST INDENTURE OF THE CITY OF WICHITA, KANSAS, AND INTRUST BANK, N.A., WICHITA, KANSAS, AS TRUSTEE, DATED AS OF DECEMBER 1, 2000 (THE "2000 INDENTURE"), AS SUPPLEMENTED AND AMENDED BY A FIRST SUPPLEMENTAL TRUST INDENTURE DATED AS OF OCTOBER 1, 2002 (THE "FIRST SUPPLEMENTAL INDENTURE"), AND A SECOND SUPPLEMENTAL TRUST INDENTURE, DATED AS OF SEPTEMBER 1, 2003 (THE "SECOND SUPPLEMENTAL INDENTURE") (THE 2000 INDENTURE, THE FIRST SUPPLEMENTAL INDENTURE AND THE SECOND SUPPLEMENTAL INDENTURE HEREINAFTER REFERRED TO COLLECTIVELY AS THE "INDENTURE"), ALL WITH BNY TRUST COMPANY OF MISSOURI, ST. LOUIS, MISSOURI (SUCCESSOR TRUSTEE TO INTRUST BANK, N.A., WICHITA, KANSAS) AND TO THE LEASE DATED AS OF DECEMBER 1, 2000 (THE "2000 LEASE"), AS SUPPLEMENTED BY A FIRST SUPPLEMENTAL LEASE DATED AS OF OCTOBER 1, 2002 (THE "FIRST SUPPLEMENTAL LEASE"), AND A SECOND SUPPLEMENTAL LEASE DATED AS OF SEPTEMBER 1, 2003 (THE "SECOND SUPPLEMENTAL LEASE") (THE 2000 LEASE, THE FIRST SUPPLEMENTAL LEASE AND THE SECOND SUPPLEMENTAL LEASE HEREINAFTER REFERRED TO COLLECTIVELY AS THE "LEASE BY AND BETWEEN SAID CITY AND WATERVIEW REALTY, LLC

### **PROPERTY SUBJECT TO LEASE**

- (A) The following described real estate (the "Land") located in Sedgwick County, Kansas, to wit:

Parcel 1

Parcel #1:

Lots 37, 38, 39, 40 and the north 10 feet of Lot 41, and the south 40 feet of Lot 42, and all of Lots 43 and 44, all on Hydraulic Avenue, in Supplemental Plat of Mathewson's Addition to the City of Wichita, Sedgwick County, Kansas, except the east 10 feet thereof for street.

Parcel #2:

The south 40 feet of Lot 41, and the north 10 feet of Lot 42, on Hydraulic Avenue, and the east 130 feet of Reserve B, all in Supplemental Plat of Mathewson's Addition to the City of Wichita, Sedgwick County, Kansas, except the east 10 feet thereof for street.

Parcel #3:

Lots A, B, C, D, E, F & G, McKim & Newcombs Subdivision of Lot 35 Mathewson's Addition to Wichita, Kansas, Sedgwick County, Kansas.

Parcel #4:

Lots H, I, J & K, McKim & Newcombs Subdivision of Lot 35, Mathewson's Addition to Wichita, Kansas, Sedgwick County, Kansas.

Parcel #5:

The south 41 feet of Lot 36, except the west 20 feet thereof for street, and that portion of Reserve B described as beginning at the Southeast corner of said Lot 36, thence south 30 feet; thence west 101.5 feet to the East line of Pennsylvania Avenue, thence north 30 feet on the East line of Pennsylvania Avenue, thence east 101.5 feet to the point of beginning, all in Supplemental Plat of Mathewson's Addition to City of Wichita, Sedgwick County, Kansas.

Parcel #6:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, the south 20 feet of Lot 11, all of Lots 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22, all in Blackwelder's Subdivision in Mathewson's Addition to Wichita, Sedgwick County, Kansas, together with the vacated alley lying south of and adjacent to Lot 6 and lying north of and adjacent to Lots 1, 2, 3, 4 and 5, except the south 5 feet of Lot 12 for street, and except the east 55 feet of Lots 18, 19, 20, 21 and 22, and except the west 4 feet of Lots 12, 13, 14, 15, 16 and 17 for alley.

Parcel #7:

The east 55 feet of Lots 18 and 19, except the north 0.25 feet of Lot 19, in Blackwelder's Subdivision in Mathewson's Addition to Wichita, Sedgwick County, Kansas. Parcel #8: Lots 3, 4 and 5, and 0.2 feet surplus adjacent to Lot 5, on Douglas Avenue, McKim's Subdivision of the South Half of Lot 31, in Mathewson's Addition to Wichita, Kansas, Sedgwick County, Kansas, together with the South Half of the vacated alley lying north of and adjacent to said lots.

Parcel #9:

The west 70 feet of the North Half of Lot 31, on Douglas Avenue, in Supplemental Plat of Mathewson's Addition to Wichita, Sedgwick County, Kansas, together with the North Half of the vacated alley lying south of and adjacent to a portion of the above described property, as described in the vacation order filed in Book Misc. 500, Page 345, except the west 20 feet of the east 50 feet thereof and except the north 5 feet thereof for street.

Parcel #10:

That part of the North Half of Lot 31, on Douglas Avenue, in Supplemental Plat of Mathewson's Addition to Wichita, Sedgwick County, Kansas, described as follows: Beginning at a point 11.8 feet west and 5 feet south of the Northeast corner of said Lot 31, thence south 145 feet, thence west 50 feet, thence north 145 feet, thence east

50 feet to the point of beginning, together with the North Half of the vacated alley lying south of and adjacent to said tract.

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Lots 2, 4, 6, 8 and 10 on Boston Avenue, now Victor Street in G.A. Hatfields Subdivision of Lot 32 in Mathewson's Addition to Wichita, Kansas, Sedgwick County, Kansas.

Parcel #12:

Lots 1, 2, 3, 4, 5 and 6, on Hazel Avenue, now New York Avenue, Tiffanys Subdivision of Lot 29 in Mathewson's Addition to Wichita, Kansas, Sedgwick County, Kansas, except the north 5 feet of Lot 1 for street.

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Parcel #14:

Lots 1, 3, 5, 7, and 9 on 1<sup>st</sup> Street, and the West 4 ft. of vacated alley adjoining Lot 9 on East, G.A. Hatfields Subdivision of Lot 32, Mathewson's Addition, Wichita, Sedgwick County, Kansas.

- (B) The buildings, improvements, machinery and/or equipment now or hereafter acquired, constructed, reconstructed, remodeled or equipped or installed with the proceeds of the Bonds and located on the Land.

The property interests described in paragraphs (A) and (B) of this Schedule I, together with any alterations or additional improvements properly deemed a part of the Project pursuant to and in accordance with the Lease, constitute the "Project" as referred to in both the Lease and the Indenture.

## **RESOLUTION NO. 11-119**

### **A RESOLUTION AUTHORIZING THE CITY OF WICHITA, KANSAS, TO CONVEY CERTAIN PROPERTY TO WATERVIEW REALTY, LLC AND PRESCRIBING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH.**

**WHEREAS**, the City of Wichita, Kansas (the “City”) has previously issued its Industrial Revenue Bonds, Series V, 2000 (\$2,000,000); Series III, 2002 (\$800,000) and Series IV, 2003 (\$1,100,000) (Big Dog Motorcycles Project) (the “Bonds”), in the aggregate original principal amount of \$3,900,000, for the purpose of acquiring, purchasing, constructing and equipping certain improvements to an corporate headquarters and manufacturing facility located in the City of Wichita, Kansas (such real property, improvements, machinery and equipment being hereinafter referred to as the “Project”); and

**WHEREAS**, the Bonds were issued pursuant to an Ordinance passed and approved by the governing body of the City on December 12, 2000 (the “Ordinance”) and a Trust Indenture dated as of December 1, 2000 (the “2000 Indenture”), as supplemented and amended by a First Supplemental Trust Indenture dated as of October 1, 2002 (the “First Supplemental Indenture”), and a Second Supplemental Trust Indenture, dated as of September 1, 2003 (the “Second Supplemental Indenture”) (the 2000 Indenture, the First Supplemental Indenture and the Second Supplemental Indenture hereinafter referred to collectively as the “Indenture”), all with BNY Trust Company of Missouri, St. Louis, Missouri (successor Trustee to INTRUST Bank, N.A., Wichita, Kansas) (the “Trustee”); and

**WHEREAS**, in connection with the issuance of the Bonds, the City, as lessor (the “Issuer”), and Waterview Realty, LLC of Wichita, Kansas, as lessee (the “Tenant”), entered into a Lease dated as of December 1, 2000 (the “2000 Lease”), as supplemented by a First Supplemental Lease dated as of October 1, 2002 (the “First Supplemental Lease”), and a Second Supplemental Lease dated as of September 1, 2003 (the “Second Supplemental Lease”) (the 2000 Lease, the First Supplemental Lease and the Second Supplemental Lease hereinafter referred to collectively as the “Lease”), a notice of which was filed of record at \_\_\_\_\_ in the records of the Sedgwick County Register of Deeds; and

**WHEREAS**, Issuer’s interest in the Lease was assigned to the Trustee pursuant to an Assignment of Lease dated December 1, 2000; and

**WHEREAS**, the Tenant has paid in full all of the outstanding Bonds pursuant to terms of the Indenture; and

**WHEREAS**, pursuant to the Lease, the Tenant has delivered a notice to the City that the Tenant has elected to exercise its purchase option with respect to the Project and has requested that the City convey title to the Project to Waterview Realty, LLC of Wichita, Kansas, and the Tenant has also delivered payment of the sum of \$1,000 as required by the Lease; and

**WHEREAS**, the City desires to convey said portions of the Project to the Tenant upon satisfaction of the conditions specified herein.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:**

**Section 1. Approval of Conveyance.** The conveyance by the City of the real and personal property described in Schedule I attached hereto and incorporated herein by reference (with such technical changes in such description as may be necessary to correct or update it) is hereby approved upon the terms and conditions set forth herein.

**Section 2. Authorization of Documents.** The City hereby authorizes and approves the Termination of Lease Agreement, attached hereto as Exhibit A, the Bill of Sale, attached hereto as Exhibit B, and the Special Warranty Deed, attached hereto as Exhibit C, in substantially the forms presented to and reviewed by the governing body of the City at this meeting and attached to this Resolution (copies of which documents shall be filed in the records of the City), with such changes therein as shall be approved by the officers of the City executing such documents, such officers' signatures thereon being conclusive evidence of their approval thereof.

**Section 3. Execution of Documents.** The Mayor is hereby authorized and directed to execute the Termination of Lease Agreement, the Bill of Sale and the Special Warranty Deed, and the City Clerk or Deputy City Clerk is hereby authorized and directed to attest to such documents, for and on behalf of the City.

**Section 4. Further Authority.** The Mayor and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates as may be necessary to transfer the Project, terminate all interest of the City in the Project and carry out the intent of this Resolution.

**ADOPTED** by the governing body of the City of Wichita, Kansas, this 17th day of May, 2011.

CITY OF WICHITA, KANSAS

By \_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

(SEAL)

Approved as to Form:

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law

## **WATERVIEW REALTY, LLC**

### **SCHEDULE I**

SCHEDULE I TO THE TRUST INDENTURE OF THE CITY OF WICHITA, KANSAS, AND INTRUST BANK, N.A., AS TRUSTEE, DATED AS OF DECEMBER 1, 2000 (THE “2000 INDENTURE”), AS SUPPLEMENTED AND AMENDED BY A FIRST SUPPLEMENTAL TRUST INDENTURE DATED AS OF OCTOBER 1, 2002 (THE “FIRST SUPPLEMENTAL INDENTURE”), AND A SECOND SUPPLEMENTAL TRUST INDENTURE, DATED AS OF SEPTEMBER 1, 2003 (THE “SECOND SUPPLEMENTAL INDENTURE”) (THE 2000 INDENTURE, THE FIRST SUPPLEMENTAL INDENTURE AND THE SECOND SUPPLEMENTAL INDENTURE HEREINAFTER REFERRED TO COLLECTIVELY AS THE “INDENTURE”), ALL WITH BNY TRUST COMPANY OF MISSOURI, ST. LOUIS, MISSOURI (SUCCESSOR TRUSTEE TO INTRUST BANK, N.A., WICHITA, KANSAS) (THE “TRUSTEE”) AND TO THE LEASE DATED DECEMBER 1, 2000 (THE “2000 LEASE”), AS SUPPLEMENTED BY A FIRST SUPPLEMENTAL LEASE DATED AS OF OCTOBER 1, 2002 (THE “FIRST SUPPLEMENTAL LEASE”), AND A SECOND SUPPLEMENTAL LEASE DATED AS OF SEPTEMBER 1, 2003 (THE “SECOND SUPPLEMENTAL LEASE”) (THE 2000 LEASE, THE FIRST SUPPLEMENTAL LEASE AND THE SECOND SUPPLEMENTAL LEASE HEREINAFTER REFERRED TO COLLECTIVELY AS THE “LEASE”)

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Lots H, I, J & K, McKim & Newcombs Subdivision of Lot 35, Mathewson’s Addition to Wichita, Kansas, Sedgwick County, Kansas.

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The south 41 feet of Lot 36, except the west 20 feet thereof for street, and that portion of Reserve B described as beginning at the Southeast corner of said Lot 36, thence south 30 feet; thence west 101.5 feet to the East line of Pennsylvania Avenue, thence north 30 feet on the East line of Pennsylvania Avenue, thence east 101.5 feet to the point of beginning, all in Supplemental Plat of Mathewson's Addition to City of Wichita, Sedgwick County, Kansas.

Parcel #6:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, the south 20 feet of Lot 11, all of Lots 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22, all in Blackwelder's Subdivision in Mathewson's Addition to Wichita, Sedgwick County, Kansas, together with the vacated alley lying south of and adjacent to Lot 6 and lying north of and adjacent to Lots 1, 2, 3, 4 and 5, except the south 5 feet of Lot 12 for street, and except the east 55 feet of Lots 18, 19, 20, 21 and 22, and except the west 4 feet of Lots 12, 13, 14, 15, 16 and 17 for alley.

Parcel #7:

The east 55 feet of Lots 18 and 19, except the north 0.25 feet of Lot 19, in Blackwelder's Subdivision in Mathewson's Addition to Wichita, Sedgwick County, Kansas.

Parcel #8:

Lots 3, 4 and 5, and 0.2 feet surplus adjacent to Lot 5, on Douglas Avenue, McKims Subdivision of the South Half of Lot 31, in Mathewson's Addition to Wichita, Kansas, Sedgwick County, Kansas, together with the South Half of the vacated alley lying north of and adjacent to said lots.

Parcel #9:

The west 70 feet of the North Half of Lot 31, on Douglas Avenue, in Supplemental Plat of Mathewson's Addition to Wichita, Sedgwick County, Kansas, together with the North Half of the vacated alley lying south of and adjacent to a portion of the above described property, as described in the vacation order filed in Book Misc. 500, Page 345, except the west 20 feet of the east 50 feet thereof and except the north 5 feet thereof for street.

Parcel #10:

That part of the North Half of Lot 31, on Douglas Avenue, in Supplemental Plat of Mathewson's Addition to Wichita, Sedgwick County, Kansas, described as follows: Beginning at a point 11.8 feet west and 5 feet south of the Northeast corner of said Lot 31, thence south 145 feet, thence west 50 feet, thence north 145 feet, thence east 50 feet to the point of beginning, together with the North Half of the vacated alley lying south of and adjacent to said tract.

Parcel #11:

Lots 2, 4, 6, 8 and 10 on Boston Avenue, now Victor Street in G.A. Hatfields Subdivision of Lot 32 in Mathewson's Addition to Wichita, Kansas, Sedgwick County, Kansas.

Parcel #12:

Lots 1, 2, 3, 4, 5 and 6, on Hazel Avenue, now New York Avenue, Tiffanys Subdivision of Lot 29 in Mathewson's Addition to Wichita, Kansas, Sedgwick County, Kansas, except the north 5 feet of Lot 1 for street.

Parcel #13:

Lots 2, 4, 6, 8, 10, 12, 14, 16, 18, 20 and 22, on New York Avenue, Little and Kimball's Subdivision of Lots 28 and 30 in Mathewson's Addition to Wichita, Sedgwick County, Kansas.

Parcel #14:

Lots 1, 3, 5, 7, and 9 on 1st Street, and the West 4 ft. of vacated alley adjoining Lot 9 on East, G.A. Hatfields Subdivision of Lot 32, Mathewson's Addition, Wichita, Sedgwick County, Kansas.

- (B) The buildings, improvements, machinery and/or equipment now or hereafter acquired, constructed, reconstructed, remodeled or equipped or installed with the proceeds of the Bonds and located on the Land.

## **EXHIBIT A**

### **TERMINATION OF LEASE AGREEMENT**

This TERMINATION OF LEASE AGREEMENT (the “Agreement”) is made by and between the City of Wichita, Kansas, a municipal corporation, of Sedgwick County, Kansas (the “City”), and Waterview Realty, LLC, a Kansas limited liability corporation (the “Tenant”). Unless a definition is otherwise provided in this Agreement, the capitalized terms used in this Agreement shall have the same meanings ascribed to them in the Lease as defined below.

#### **WITNESSETH**

**WHEREAS** the City has previously issued its Industrial Revenue Bonds, Series V, 2000 (\$2,000,000); Series III, 2002 (\$800,000) and Series IV, 2003 (\$1,100,000) (Big Dog Motorcycles Project) (the “Bonds”), in the aggregate original principal amount of \$3,900,000, for the purpose of acquiring, purchasing, constructing and equipping certain improvements to an corporate headquarters and manufacturing facility located in the City of Wichita, Kansas (such real property, improvements, machinery and equipment being hereinafter referred to as the “Project”); and

**WHEREAS**, the Bonds were issued pursuant to an Ordinance passed and approved by the governing body of the City on December 12, 2000 (the “Ordinance”) and a Trust Indenture dated as of December 1, 2000 (the “2000 Indenture”), as supplemented and amended by a First Supplemental Trust Indenture dated as of October 1, 2002 (the “First Supplemental Indenture”), and a Second Supplemental Trust Indenture, dated as of September 1, 2003 (the “Second Supplemental Indenture”) (the 2000 Indenture, the First Supplemental Indenture and the Second Supplemental Indenture hereinafter referred to collectively as the “Indenture”), all with BNY Trust Company of Missouri, St. Louis, Missouri (successor Trustee to INTRUST Bank, N.A., Wichita, Kansas) (the “Trustee”); and

**WHEREAS**, in connection with the issuance of the Bonds, the City, as lessor, and Waterview Realty, LLC, as lessee (the “Tenant”), entered into a Lease dated as of December 1, 2000 (the “2000 Lease”), as supplemented by a First Supplemental Lease dated as of October 1, 2002 (the “First Supplemental Lease”), and a Second Supplemental Lease dated as of September 1, 2003 (the “Second Supplemental Lease”) (the 2000 Lease, the First Supplemental Lease and the Second Supplemental Lease hereinafter referred to collectively as the “Lease”); and

**WHEREAS**, the Tenant has paid in full all of the outstanding Bonds pursuant to the terms of the Indenture; and

**WHEREAS**, pursuant to the Lease, the Tenant has delivered a notice to the City that the Tenant has elected to exercise its purchase option of the Project and has requested that the City convey title to the Project to Waterview Realty, LLC, and the Tenant has also delivered payment of the sum of \$1,000 as required by the Lease; and

**NOW, THEREFORE, THE CITY DOES HEREBY STATE AND DECLARE** that as of the date of delivery hereof the Lease and the Notice thereof shall terminate and be of no further force and effect. The property located in Sedgwick County, Kansas, affected by the Lease and this Termination of Lease is described in Schedule I attached hereto and incorporated herein by reference.

**IN WITNESS WHEREOF**, the parties named above have caused this Termination of Lease to be duly executed in their respective names and have caused their respective corporate seals to be hereunto affixed and attested by their duly authorized officers, as of May \_\_\_\_, 2011.

CITY OF WICHITA, KANSAS

By \_\_\_\_\_  
Carl Brewer, Mayor

[SEAL]

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

#### ACKNOWLEDGMENT

STATE OF KANSAS    )  
                                  ) ss:  
SEDGWICK COUNTY)

On this \_\_\_\_\_ day of May, 2011 before me, the undersigned, a Notary Public in and for said State, came Carl Brewer and Karen Sublett, to me personally known to be the Mayor and City Clerk, respectively, of the City of Wichita, Kansas, and said Mayor and City Clerk acknowledged that they executed the foregoing instrument in writing as the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

\_\_\_\_\_  
Notary Public

[SEAL]

My Appointment Expires:

Approved as to Form:

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law

WATERVIEW REALTY, LLC

By \_\_\_\_\_

Its: \_\_\_\_\_

### ACKNOWLEDGMENT

STATE OF KANSAS    )  
  ) ss:  
SEDGWICK COUNTY)

On this \_\_\_\_\_ day of May, 2011, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn, did say that he is the General Executive of Waterview Realty, LLC of Wichita, Kansas, and had signed the foregoing instrument in writing on behalf of said company as the free act and deed of said company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

\_\_\_\_\_  
Notary Public

[SEAL]

My Appointment Expires:

\_\_\_\_\_

## WATERVIEW REALTY, LLC

### SCHEDULE I

SCHEDULE I TO THE TRUST INDENTURE OF THE CITY OF WICHITA, KANSAS, AND INTRUST BANK, N.A., AS TRUSTEE, DATED AS OF DECEMBER 1, 2000 (THE "2000 INDENTURE"), AS SUPPLEMENTED AND AMENDED BY A FIRST SUPPLEMENTAL TRUST INDENTURE DATED AS OF OCTOBER 1, 2002 (THE "FIRST SUPPLEMENTAL INDENTURE"), AND A SECOND SUPPLEMENTAL TRUST INDENTURE, DATED AS OF SEPTEMBER 1, 2003 (THE "SECOND SUPPLEMENTAL INDENTURE") (THE 2000 INDENTURE, THE FIRST SUPPLEMENTAL INDENTURE AND THE SECOND SUPPLEMENTAL INDENTURE HEREINAFTER REFERRED TO COLLECTIVELY AS THE "INDENTURE"), ALL WITH BNY TRUST COMPANY OF MISSOURI, ST. LOUIS, MISSOURI (SUCCESSOR TRUSTEE TO INTRUST BANK, N.A., WICHITA, KANSAS) (THE "TRUSTEE" WATERVIEW REALTY, LLC OF WICHITA, KANSAS

#### PROPERTY SUBJECT TO LEASE

- (A) The following described real estate (the "Land") located in Sedgwick County, Kansas, to wit:

Parcel #1:

Lots 37, 38, 39, 40 and the north 10 feet of Lot 41, and the south 40 feet of Lot 42, and all of Lots 43 and 44, all on Hydraulic Avenue, in Supplemental Plat of Mathewson's Addition to the City of Wichita, Sedgwick County, Kansas, except the east 10 feet thereof for street.

Parcel #2:

The south 40 feet of Lot 41, and the north 10 feet of Lot 42, on Hydraulic Avenue, and the east 130 feet of Reserve B, all in Supplemental Plat of Mathewson's Addition to the City of Wichita, Sedgwick County, Kansas, except the east 10 feet thereof for street.

Parcel #3:

Lots A, B, C, D, E, F & G, McKim & Newcombs Subdivision of Lot 35 Mathewson's Addition to Wichita, Kansas, Sedgwick County, Kansas.

Parcel #4:

Lots H, I, J & K, McKim & Newcombs Subdivision of Lot 35, Mathewson's Addition to Wichita, Kansas, Sedgwick County, Kansas.

Parcel #5:

The south 41 feet of Lot 36, except the west 20 feet thereof for street, and that portion of Reserve B described as beginning at the Southeast corner of said Lot 36, thence south 30 feet; thence west 101.5 feet to the East line of Pennsylvania Avenue, thence north 30 feet on the East line of Pennsylvania Avenue, thence east 101.5 feet to the point of beginning, all in Supplemental Plat of Mathewson's Addition to City of Wichita, Sedgwick County, Kansas.

Parcel #6:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, the south 20 feet of Lot 11, all of Lots 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22, all in Blackwelder's Subdivision in Mathewson's Addition to Wichita, Sedgwick County, Kansas, together with the vacated alley lying south of and adjacent to Lot 6 and lying north of and adjacent to Lots 1, 2, 3, 4 and 5, except the south 5 feet of Lot 12 for street, and except the east 55 feet of Lots 18, 19, 20, 21 and 22, and except the west 4 feet of Lots 12, 13, 14, 15, 16 and 17 for alley.

Parcel #7:

The east 55 feet of Lots 18 and 19, except the north 0.25 feet of Lot 19, in Blackwelder's Subdivision in Mathewson's Addition to Wichita, Sedgwick County, Kansas.

Parcel #8:

Lots 3, 4 and 5, and 0.2 feet surplus adjacent to Lot 5, on Douglas Avenue, McKim's Subdivision of the South Half of Lot 31, in Mathewson's Addition to Wichita, Kansas, Sedgwick County, Kansas, together with the South Half of the vacated alley lying north of and adjacent to said lots.

Parcel #9:

The west 70 feet of the North Half of Lot 31, on Douglas Avenue, in Supplemental Plat of Mathewson's Addition to Wichita, Sedgwick County, Kansas, together with the North Half of the vacated alley lying south of and adjacent to a portion of the above described property, as described in the vacation order filed in Book Misc. 500, Page 345, except the west 20 feet of the east 50 feet thereof and except the north 5 feet thereof for street.

Parcel #10:

That part of the North Half of Lot 31, on Douglas Avenue, in Supplemental Plat of Mathewson's Addition to Wichita, Sedgwick County, Kansas, described as follows: Beginning at a point 11.8 feet west and 5 feet south of the Northeast corner of said Lot 31, thence south 145 feet, thence west 50 feet, thence north 145 feet, thence east 50 feet to the point of beginning, together with the North Half of the vacated alley lying south of and adjacent to said tract.

Parcel 11:

Lots 2, 4, 6, 8 and 10 on Boston Avenue, now Victor Street in G.A. Hatfields Subdivision of Lot 32 in Mathewson's Addition to Wichita, Kansas, Sedgwick County, Kansas.

Parcel #12:

Lots 1, 2, 3, 4, 5 and 6, on Hazel Avenue, now New York Avenue, Tiffanys Subdivision of Lot 29 in Mathewson's Addition to Wichita, Kansas, Sedgwick County, Kansas, except the north 5 feet of Lot 1 for street.

Parcel #13:

Lots 2, 4, 6, 8, 10, 12, 14, 16, 18, 20 and 22, on New York Avenue, Little and Kimball's Subdivision of Lots 28 and 30 in Mathewson's Addition to Wichita, Sedgwick County, Kansas.

Parcel #14:

Lots 1, 3, 5, 7, and 9 on 1<sup>st</sup> Street, and the West 4 ft. of vacated alley adjoining Lot 9 on East, G.A. Hatfields Subdivision of Lot 32, Mathewson's Addition, Wichita, Sedgwick County, Kansas.

- (B) The buildings, improvements, machinery and/or equipment now or hereafter acquired, constructed, reconstructed, remodeled or equipped or installed with the proceeds of the Bonds and located on the Land.



**City of Wichita  
City Council Meeting  
May 17, 2011**

**TO:** Mayor and City Council

**SUBJECT:** Assistance to Firefighters Grant Program (All Districts)

**INITIATED BY:** Wichita Fire Department

**AGENDA:** Consent

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**Recommendation:** Accept the Assistance to Firefighters grant award for Computer Based Training software.

**Background:** The Fiscal Year 2010 Defense Authorization Act authorized the federal Department of Homeland Security, Federal Emergency Management Agency (FEMA), to make \$339.4 million in grants available to fire departments.

**Analysis:** In April of 2010, the Wichita Fire Department (WFD) applied to the Federal Emergency Management Agency (FEMA) and the Department of Homeland Security (DHS) under the FY 2010 Assistance to Firefighters Grant for computer based training software. The Department was notified on January 17, 2011, that it had been chosen to receive one of two grants that were submitted in 2010 to the FEMA Assistance to Firefighters Grant.

This grant will allow the Wichita Fire Department to bring all of its members to a national standard level of qualification by maintaining a “safety first” workforce through the use of a web based training for all fire fighters.

**Financial Considerations:** The total grant amount is \$37,156. The Federal share is 80 percent or \$29,725 of the approved amount and the Fire Department’s share of the cost is 20 percent or \$7,431. The local grant match will be funded by the WFD General Fund and adjusted in the 2011 revised budget.

**Goal Impact:** This grant funding will support the Safe and Secure Community goal through better educated first responders.

**Legal Considerations:** The Law Department has approved the 2010 Assistance to Firefighter Grant submission as to form.

**Recommendations/Actions:** It is recommended that the City Council approve the award of the 2010 Assistance to Firefighters grant and authorize necessary signatures.

City of Wichita  
City Council Meeting  
May 17, 2010

**TO:** Mayor and City Council

**SUBJECT:** WAMPO Consultant Contract for  
On-call Independent Legal Services

**INITIATED BY:** Wichita Area Metropolitan Planning Organization (WAMPO).

**AGENDA:** Consent

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**Recommendation:** As fiscal agent, approve a consultant contract to secure independent, on-call legal services to represent WAMPO in negotiations of a Memorandum of Understanding among WAMPO, the City of Wichita and Sedgwick County, and authorize the necessary signatures.

**Background:** The Wichita Area Metropolitan Planning Organization (WAMPO) is responsible for carrying out the metropolitan transportation planning process. WAMPO is negotiating a Memorandum of Understanding among itself, the City of Wichita, and Sedgwick County to refine the Fiscal and Administrative responsibilities of each of the organizations as it pertains to the operation of the Metropolitan Planning Organization.

WAMPO posted a Request for Proposals in November of 2010 that closed in early January of 2011. No proposals were submitted for consideration. WAMPO discussed the issue with the Purchasing Department, Legal Department, and the Kansas Department of Transportation on how to proceed. WAMPO was advised that the agency had met the requirements of the competitive selection process and was free to solicit interest in the position by other means. WAMPO by word-of-mouth received several recommendations and contacts to pursue. Three candidates responded to this effort. Each candidate was advised to respond to the intent of the original RFP. WAMPO assembled a review committee to review each of the proposals received. WAMPO and the Purchasing Department followed the requirements of Administrative Regulation 1.2, Contracting for Professional Services Requests for Proposals, to select a candidate. Each proposal was evaluated and scored and Joe Lang, Attorney at Law, received the highest scores and the most number one recommendations. Mr. Lang was interviewed by the selection committee and selected to provide the required legal services.

**Analysis:** The contract is required to secure independent legal services to represent WAMPO to avoid any conflict of interest in having the legal departments of either the City of Wichita or Sedgwick County serve as WAMPO legal counsel.

**Financial Considerations:** WAMPO will use Federal transportation planning funds made available through the Consolidated Planning Grant for the contractual services. Planning studies funded by the Kansas Department of Transportation Federal Funding Exchange is supplying the required 20 percent in-kind matching funds. The Independent On-call Legal Services contract is for a total cost not to exceed \$30,000. The contract will run for one calendar year, starting on the date of the last signatory.

**Goal Impact:** Approval of this contract will support the goal of Efficient Infrastructure by providing for the operation of the Metropolitan Planning Organization and the metropolitan transportation planning process.

**Legal Considerations:** The Law Department has approved the contract as to form.

**Recommendations/Actions:** It is recommended that the City Council, as the fiscal agent for WAMPO, authorize the necessary signatures to execute the contract for Independent On-call Legal Services.

**Attachments (2):** 1) Independent On-call Legal Service Contract. 2) City of Wichita Law Department approval as to form.

# CONTRACT FOR PROFESSIONAL SERVICES

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## WAMPO On-call Independent Legal Services Contract

**THIS CONTRACT** made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2011, by and between the Wichita Area Metropolitan Planning Organization (WAMPO), (hereinafter referred to as “the Client”); and Joe Allen Lang, Attorney at Law, (hereinafter referred to as “the Consultant”)

**WHEREAS**, the Client wants to contract with the Consultant for On-call Independent Legal Services in negotiation of a Memorandum of Understanding among WAMPO, the City of Wichita, Kansas and Sedgwick County, Kansas. The contract is financed in part with funding from the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA), and is subject to federal requirements and regulations. The services performed under any resulting agreement shall comply with all federal, state and City of Wichita laws and regulations. In addition, this contract will be subject to the requirements of 49 CFR 18 and cost eligibility reimbursement will be subject to 48 CFR 31.2; and

**WHEREAS**, the Consultant is licensed in the State of Kansas to practice law and is in good standing with the Kansas Bar Association, is able to undertake this Project on behalf of the Client; has presented the proposal most advantageous to Client from among competitive submissions, and

**WHEREAS**, the Client desires to retain the services of the Consultant on an on-call basis to provide Independent Legal Services in negotiation of a Memorandum of Understanding among WAMPO, the City of Wichita, Kansas and Sedgwick County, Kansas.

### **NOW, THEREFORE THE PARTIES AGREE AS FOLLOWS:**

- 1. DESCRIPTION OF SERVICES.** The Consultant will provide the services and deliver documents required to provide support to:
  - A.** Legal review and determination on activities related to the Memorandum of Understanding being developed among WAMPO, the City of Wichita, Kansas and Sedgwick County, Kansas.
  - B.** Review of existing Redesignation Agreement for Cooperative Transportation Planning for consistency of the Memorandum of Understanding and the Contract.
  - C.** Attend various meetings; including those between WAMPO and the other principals, the WAMPO Transportation Policy Body (TPB), or other relevant meetings.
  - D.** Provide on-call assistance for legal questions and concerns pertaining to the Memorandum of Understanding as requested by the Client in accordance with the guidelines set forth by the FHWA, the State of Kansas, and the City of Wichita Revised Non Discrimination and Equal Opportunity Statement, in Exhibit A, and Kansas Department of Transportation (KDOT) Special Attachment to Contracts and Agreements in Exhibit B.
  - E.** To be available during regular business hours to provide any and all forms of representation such as the Client may wish during the performance of this Contract.

- F. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by the Consultant and, where relevant to method of payment, to make such material available to the client.
- G. To comply with all federal, state and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964.
- H. To be responsible for the professional and technical accuracies and coordination of all work and materials furnished by the Consultant under this Contract.
- I. To save and hold harmless the Client against all suits, claims and losses arising from or caused by errors, omissions or negligent acts of the Consultant, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.
- J. To maintain professional liability insurance in commercially reasonable coverages and amounts for the entire term of this Contract.

**2. PERFORMANCE OF SERVICES.** The Consultant shall determine the manner in which its services hereunder are to be performed and the specific hours to be worked in completing such services; provided, the Consultant will provide requested personal representation, information and activities as agreed between Client and Consultant. Consultant's schedule will be given due consideration in the setting of meetings at which representation is desired.

**3. PAYMENT.** The Client will compensate upon finding that services and deliverables provided by the Consultant are acceptable under the terms of the Contract for the direct hours worked by the Consultant at the rate set forth in Exhibit C, Fee Schedule, which by this reference is incorporated and made a part of this Contract. The Client will compensate the Consultant upon finding that costs are acceptable under the terms of the Contract for material and other direct costs specified in the Scope of Services and for reasonable expenses incurred as a direct result of Consultant's performance of services. The actual cost shall be incurred in conformity with the cost principles established in *23 CFR 172* and *48 CFR 31*, et seq. Unless acceptable by the Client, the maximum cost not to exceed dollar amount for the compensation for services and costs detailed in this Contract is \$30,000.00 or the budgeted amount as shown in the approved budget (Unified Planning Work Program) upon the effective date of the final signature of this contract, if different. During the progress of work covered by this Contract, payments will be made to the Consultant at a maximum of 30 day intervals based on the statements provided by the Consultant itemizing the number of hours of work performed. Client will make payment within 30 days of a reconciled and approved invoice reflecting deliverables as outlined by the scope of work. In addition, the Consultant agrees that;

- A. The reimbursement for the professional services required by this Contract will be based on the Consultant's actual costs, which can be less than the estimated amount. If additional work should be necessary, the Client will negotiate with the Consultant if there are any changes in the deliverables. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the Client and the Consultant.

- B. Reimbursement will be made promptly upon completion of the associated services to the satisfaction of the Client. The Consultant will not be responsible or held liable for delays occasioned by the actions or inactions on the part of the Client or for other unavoidable delays beyond the control of the Consultant.
  - C. Client will inform Consultant promptly upon discovery of any dissatisfaction with deliverables or invoicing and will reimburse to the Consultant any withheld payment upon completion of the associated work effort to the Client's satisfaction.
4. **CASH BASIS AND BUDGET LAWS.** The right of the Client to enter into this Contract is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and other laws of the State of Kansas. This Contract shall be construed and interpreted so as to ensure that the Client shall at all times stay in conformity with such laws, and as a condition of this Contract the Client reserves the right to unilaterally sever, modify, or terminate this Contract at any time if, in the opinion of its legal counsel, the Contract may be deemed to violate the terms of such laws.
5. **INDEMNIFICATION AGREEMENT.** Consultant agrees to fully indemnify, defend, and hold harmless Client, its officers, employees, and volunteers from any and all loss, damage, liability, claim, demand, or cause of action whatsoever to the extent arising out of or resulting from or alleged to have arisen out of or have resulted from any negligent act or omission or willful misconduct of Consultant, its officers, employees, independent contractors, or representatives in the performance of this Contract.
6. **TERM/TERMINATION.** This Contract shall run for one (1) calendar year effective the date of the final signature on this contract. This Contract shall terminate upon the satisfactory completion by the Consultant of the services and documents required to be provided hereunder, or upon 20 days written notice of cancellation by the Client. Upon receipt of such notice of termination the Consultant shall discontinue and cause all such work to terminate upon the date specified in the notice from the Client. The Consultant will be entitled to compensation for actual effort performed up to the date of termination. Any invoice for completed work or termination claim must be submitted to the Client within thirty (30) days after the effective date of termination. In the event of termination, such information prepared by Consultant to carry out this contract shall, at the option of Client, become the property of the Client and be immediately turned over to the Client. Consultant shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.
7. **PROPRIETARY MATERIALS.** Upon the successful completion of contract, all data provided by the Client, and any new data collected by the Consultant under this contract will be returned to the Client. The Consultant agrees to not keep copies of the provided and collected

data after the successful completion of the contract for any other use, or transfer data to any other party without the written approval from the Client.

- 8. RELATIONSHIP OF PARTIES.** It is understood and agreed that the Consultant is an independent contractor and the parties will have an attorney-client relationship
- 9. NOTICES.** All notices required or permitted under this Contract shall be in writing and shall be deemed sufficient if delivered in person or deposited in the United States mail, postage prepaid, and addressed as follows:

For the Client: William A. Christian  
Principal Planner  
Wichita Area Metropolitan Planning Organization  
455 N. Main St. – 10<sup>th</sup> Floor  
Wichita, Kansas 67202-1688

For the Consultant: Joe Allen Lang  
Attorney at Law  
2513 Green Meadow Circle  
Wichita, Kansas 67205

- 10. ENTIRE AGREEMENT.** This Contract contains the entire agreement of the parties and there are no other promises or conditions in any other agreement, either oral or written. This Contract supersedes any prior written or oral agreement between the parties pertaining to the same subject matter.
- 11. AMENDMENT.** This Contract may be modified or amended if the modification or amendment is made in writing and signed by the Client and the Consultant.
- 12. SEVERABILITY.** If any provision of this Contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds any provision of this Contract is invalid or unenforceable, but by limiting the applicability of such provision the entire Contract would be valid and enforceable, then such provision shall be deemed to be written, construed and enforced as limited.
- 13. WAIVER OF CONTRACTUAL RIGHT.** The failure of either party to enforce any provision of this Contract shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Contract.
- 14. APPLICABLE LAW.** This Contract shall be governed by the law of the State of Kansas.

**WICHITA AREA METROPOLITAN PLANNING ORGANIZATION:**

\_\_\_\_\_  
Tim Norton  
Transportation Policy Body Chairperson

\_\_\_\_\_  
Date

**CITY OF WICHITA AS FISCAL AGENT:**

\_\_\_\_\_  
Carl Brewer  
Mayor

\_\_\_\_\_  
Date

**ATTEST:**

\_\_\_\_\_  
John Schlegel  
WAMPO Secretary

\_\_\_\_\_  
Date

**JOE ALLEN LANG, ATTORNEY AT LAW**

\_\_\_\_\_  
Joe Allen Lang  
Attorney at Law

\_\_\_\_\_  
Date

**Approved as to form:**

By Gary E. Rebenstorf  
Gary E. Rebenstorf  
City Attorney, City of Wichita

5-2-11  
Date



## **EXHIBIT A**

### **REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated there under.
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
  - 1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
  - 2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration

for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;

3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City, are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

## **EXHIBIT B**

State of Kansas  
Department of Administration  
DA-146a (Rev. 1-01)

### **CONTRACTUAL PROVISIONS ATTACHMENT**

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 1-01), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the \_\_\_\_\_ day of \_\_\_\_\_ 2011.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated.
2. **Agreement With Kansas Law:** All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** Neither the State of Kansas nor any agency thereof shall hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Parties to this contract understand that the provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting state agency cumulatively total \$5,000 or less during the fiscal year of such agency.

6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation shall be allowed to find the State or any agency thereof has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the State of Kansas shall not agree to pay attorney fees and late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The State of Kansas shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas shall not be required to purchase, any insurance against loss or damage to any personal property to which this contract relates, nor shall this contract require the State to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the vendor or lessor shall bear the risk of any loss or damage to any personal property in which vendor or lessor holds title.
11. **Information: No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.**
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."

## **EXHIBIT C**

### **Fee Schedule**

The project will be based on an a fixed fee basis not to exceed \$30,000.00 or the budgeted amount as shown in the approved budget (Unified Planning Work Program) upon the date of the final signature of this contract if different.

Standard cost for legal services (such as those included in the scope of services and not including litigation) will be \$125.00 per hour of attorney time.

Contractor costs are as follows:

Contractor	Cost per Hour
Joe Lang, Attorney at Law	\$125.00

Service costs will include actual costs for any over-night delivery, bulk postage (other than standard letters), travel outside of the metropolitan area at IRS rate, and any electronic research for which charges are incurred. There will be no paralegal or clerical costs billed.

**Second Reading Ordinances for May 17, 2011 (first read on May 10, 2011)**

**Approval of Forgivable Loan, Golf Warehouse. (District II)**

ORDINANCE NO. 49-003

An ordinance of the city of Wichita, Kansas, prescribing the form and authorizing the execution of a forgivable loan agreement and promissory note by and between the Golf Warehouse, Inc. and the City of Wichita, Kansas.

**Central Avenue Improvement, from Tara to West Parkway, between Rock and Webb. (District II)**

ORDINANCE NO. 49-004

An ordinance amending Ordinance No. 48-811 of the City of Wichita, Kansas declaring Central Avenue, between Rock Road and Webb Road (472-84916) to be a main trafficway within the City of Wichita Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements the estimated costs thereof, and the manner of payment of the same.

**ZON2011-00002 – City zone change from SF-5 Single-Family Residential to NO Neighborhood Office, subject to Protective Overlay #250, generally located northeast of Central Avenue and 159th Street East. (District II)**

ORDINANCE NO. 49-005

An ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended.

**Abatement of Dangerous and Unsafe Structures. (Districts I, IV and VI)**

ORDINANCE NO. 49-006

An ordinance making a special assessment to pay for the removal of certain structures, being dangerous and unsafe buildings which have been declared a nuisance (Building Emergency Board-Up) under the provision of sections 18.16.010 to 18.16.090 of the code of the city of Wichita, Kansas.

ORDINANCE NO. 49-007

An ordinance making a special assessment to pay for the removal of certain structures, being dangerous and unsafe buildings which have been declared a nuisance (Building Condemnation-Demolition ) under the provision of sections 18.16.010 to 18.16.090 of the code of the City of Wichita, Kansas.